

Senate Amendment 3391

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1 1 Amend House File 692, as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. By striking everything after the enacting
1 4 clause and inserting the following:

1 5 1 6 PROPERTY TAXATION

1 7 Section 1. Section 441.19, subsections 1 and 2,
1 8 Code 2003, are amended to read as follows:

1 9 1. Supplemental and optional to the procedure for
1 10 the assessment of property by the assessor as provided
1 11 in this chapter, the assessor may require from all
1 12 persons required to list their property for taxation
1 13 as provided by sections 428.1 and 428.2, a
1 14 supplemental return to be prescribed by the director
1 15 of revenue and finance upon which the person shall
1 16 list the person's property and any additions or
1 17 modifications completed in the prior year to a

1 18 structure located on the property. The supplemental
1 19 return shall be in substantially the same form as now
1 20 prescribed by law for the assessment rolls used in the
1 21 listing of property by the assessors. Every person
1 22 required to list property for taxation shall make a
1 23 complete listing of the property upon supplemental
1 24 forms and return the listing to the assessor ~~as~~
1 25 ~~promptly as possible within thirty days of receiving~~
1 26 ~~the assessment notice in section 441.23.~~ The return

1 27 shall be verified over the signature of the person
1 28 making the return and section 441.25 applies to any
1 29 person making such a return. The assessor shall make
1 30 supplemental return forms available as soon as
1 31 practicable after the first day of January of each
1 32 year. The assessor shall make supplemental return
1 33 forms available to the taxpayer by mail, or at a
1 34 designated place within the taxing district.

1 35 2. Upon receipt of such supplemental return from
1 36 any person the assessor shall prepare a roll assessing
1 37 such person as hereinafter provided. In the
1 38 preparation of such assessment roll the assessor shall
1 39 be guided not only by the information contained in
1 40 such supplemental roll, but by any other information
1 41 the assessor may have or which may be obtained by the
1 42 assessor as prescribed by the law relating to the
1 43 assessment of property. The assessor shall not be
1 44 bound by any values or square footage determinations

1 45 or purchase prices as listed in such supplemental
1 46 return, and may include in the assessment roll any
1 47 property omitted from the supplemental return which in
1 48 the knowledge and belief of the assessor should be
1 49 listed as required by law by the person making the
1 50 supplemental return. Upon completion of such roll the
2 1 assessor shall deliver to the person submitting such
2 2 supplemental return a copy of the assessment roll,
2 3 either personally or by mail.

2 4 Sec. 2. NEW SECTION. 441.20 LEGISLATIVE INTENT.

2 5 It is the intent of the general assembly that there
2 6 be transparency in the property tax system. It is
2 7 further the intent of the general assembly that
2 8 property assessments for purposes of property taxation
2 9 be equal and uniform within classes of property. It
2 10 is further the intent of the general assembly to
2 11 minimize the impact that maintenance and upkeep by the
2 12 owner of property has on the assessment of that
2 13 property and that there be predictability in increases
2 14 of property assessments and that such predictability
2 15 be based primarily on the actions of the property
2 16 owner. It is further the intent of the general
2 17 assembly to minimize the impact that increases in
2 18 assessed value of property will have on property taxes
2 19 paid and that any increases will be primarily the
2 20 result of direct action taken by the local taxing
2 21 authority in setting budget amounts rather than by
2 22 increases in market value of property.

2 23 Sec. 3. Section 441.21, Code 2003, is amended by
2 24 striking the section and inserting in lieu thereof the
2 25 following:

2 26 441.21 ASSESSMENT OF STRUCTURES.
2 27 1. All real property, except land, subject to
2 28 taxation shall be assessed on a value per square foot
2 29 basis according to the provisions of this section.
2 30 2. a. Subject to paragraph "b", for valuations
2 31 established as of January 1, 2006, and for subsequent
2 32 assessment years, the assessed value per square foot
2 33 of a residential structure shall be an amount equal to
2 34 the valuation of the structure as determined for the
2 35 assessment year beginning January 1, 2005, prior to
2 36 application of the assessment limitation for that
2 37 year, divided by the total number of square feet of
2 38 the structure as of January 1, 2005.
2 39 b. (1) The assessed value per square foot of an
2 40 existing residential structure purchased after January
2 41 1, 2005, shall be the purchase price of the structure
2 42 divided by the cumulative inflation factor established
2 43 for the assessment year following the year of
2 44 purchase, divided by the total number of square feet
2 45 of the structure as of January 1 of the assessment
2 46 year. The assessed value per square foot of a
2 47 residential structure newly constructed after January
2 48 1, 2005, shall be the market value of the structure,
2 49 as determined by the assessor, divided by the
2 50 cumulative inflation factor established for the
3 1 assessment year following the year construction was
3 2 completed, divided by the total number of square feet
3 3 of the structure as of January 1 of the assessment
3 4 year. However, when valuing an addition that
3 5 substantially increases the square footage of a
3 6 structure, only that portion of the structure
3 7 comprising the addition shall be valued by the
3 8 assessor under this subparagraph.
3 9 (2) If additions or modifications to an existing
3 10 structure do not constitute a newly constructed
3 11 structure, the valuation of the structure shall only
3 12 increase if the square footage of the structure
3 13 increases. The increased valuation, if any, equals
3 14 the amount of increased square feet times the value
3 15 per square foot of the structure prior to the
3 16 additions or modifications.
3 17 3. a. Subject to paragraph "b" for valuations
3 18 established as of January 1, 2006, and for subsequent
3 19 assessment years, the assessed value per square foot
3 20 of a commercial or industrial structure shall be an
3 21 amount equal to the valuation of the structure as
3 22 determined for the assessment year beginning January
3 23 1, 2005, prior to application of the assessment
3 24 limitation for that year, divided by the total number
3 25 of square feet of the structure as of January 1, 2005.
3 26 b. (1) The assessed value per square foot of an
3 27 existing commercial or industrial structure purchased
3 28 after January 1, 2005, shall be the purchase price of
3 29 the structure divided by the cumulative inflation
3 30 factor established for the assessment year following
3 31 the year of purchase, divided by the total number of
3 32 square feet of the structure as of January 1 of the
3 33 assessment year. The assessed value per square foot
3 34 of a commercial or industrial structure newly
3 35 constructed after January 1, 2005, shall be the market
3 36 value of the structure, as determined by the assessor,
3 37 divided by the cumulative inflation factor established
3 38 for the assessment year following the year
3 39 construction was completed, divided by the total
3 40 number of square feet of the structure as of January 1
3 41 of the assessment year. However, when valuing an
3 42 addition that substantially increases the square
3 43 footage of a structure, only that portion of the
3 44 structure comprising the addition shall be valued by
3 45 the assessor under this subparagraph.
3 46 (2) If additions or modifications to an existing
3 47 structure do not constitute a newly constructed
3 48 structure, the valuation of the structure shall only
3 49 increase if the square footage of the structure
3 50 increases. The increased valuation, if any, equals
4 1 the amount of increased square feet times the value
4 2 per square foot of the structure prior to the
4 3 additions or modifications.
4 4 4. a. Subject to paragraph "b" for valuations
4 5 established as of January 1, 2006, and for subsequent
4 6 assessment years, the assessed value per square foot

4 7 of an agricultural structure that is not an
4 8 agricultural dwelling shall be an amount equal to the
4 9 valuation of the structure as determined for the
4 10 assessment year beginning January 1, 2005, prior to
4 11 application of the assessment limitation for that
4 12 year, divided by the total number of square feet of
4 13 the structure as of January 1, 2005.

4 14 b. (1) The assessed value per square foot of an
4 15 existing agricultural structure purchased after
4 16 January 1, 2005, shall be the productivity value of
4 17 the structure divided by the cumulative inflation
4 18 factor established for the assessment year following
4 19 the year of purchase, divided by the total number of
4 20 square feet of the structure as of January 1 of the
4 21 assessment year. The assessed value per square foot
4 22 of an agricultural structure newly constructed after
4 23 January 1, 2005, shall be the productivity value of
4 24 the structure for the assessment year following the
4 25 year construction was completed, as determined by the
4 26 assessor, divided by the cumulative inflation factor
4 27 established for the assessment year following the year
4 28 construction was completed, divided by the total
4 29 number of square feet of the structure as of January 1
4 30 of the assessment year. However, when valuing an
4 31 addition that substantially increases the square
4 32 footage of a structure, only that portion of the
4 33 structure comprising the addition shall be valued by
4 34 the assessor under this subparagraph.

4 35 (2) If additions or modifications to an existing
4 36 structure do not constitute a newly constructed
4 37 structure, the valuation of the structure shall only
4 38 increase if the square footage of the structure
4 39 increases. The increased valuation, if any, equals
4 40 the amount of increased square feet times the value
4 41 per square foot of the structure prior to the
4 42 additions or modifications.

4 43 5. a. In determining the market value of newly
4 44 constructed property, except agricultural structures,
4 45 the assessor may determine the value of the property
4 46 using uniform and recognized appraisal methods
4 47 including its productive and earning capacity, if any,
4 48 industrial conditions, its cost, physical and
4 49 functional depreciation and obsolescence and
4 50 replacement cost, and all other factors which would
5 1 assist in determining the fair and reasonable market
5 2 value of the property but the actual value shall not
5 3 be determined by use of only one such factor. The
5 4 following shall not be taken into consideration:
5 5 special value or use value of the property to its
5 6 present owner, and the goodwill or value of a business
5 7 that uses the property as distinguished from the value
5 8 of the property as property. However, in assessing
5 9 property that is rented or leased to low-income
5 10 individuals and families as authorized by section 42
5 11 of the Internal Revenue Code, as amended, and which
5 12 section limits the amount that the individual or
5 13 family pays for the rental or lease of units in the
5 14 property, the assessor shall use the productive and
5 15 earning capacity from the actual rents received as a
5 16 method of appraisal and shall take into account the
5 17 extent to which that use and limitation reduces the
5 18 market value of the property. The assessor shall not
5 19 consider any tax credit equity or other subsidized
5 20 financing as income provided to the property in
5 21 determining the market value. Upon adoption of
5 22 uniform rules by the department of revenue and finance
5 23 or covering assessments and valuations of such
5 24 properties, the valuation on such properties shall be
5 25 determined in accordance with such values for
5 26 assessment purposes to assure uniformity, but such
5 27 rules shall not be inconsistent with or change the
5 28 foregoing means of determining the market value.

5 29 b. The actual value of special purpose tooling,
5 30 which is subject to assessment and taxation as real
5 31 property under section 427A.1, subsection 1, paragraph
5 32 "e", but which can be used only to manufacture
5 33 property which is protected by one or more United
5 34 States or foreign patents, shall not exceed the fair
5 35 and reasonable exchange value between a willing buyer
5 36 and a willing seller, assuming that the willing buyer
5 37 is purchasing only the special purpose tooling and not

5 38 the patent covering the property which the special
5 39 purpose tooling is designed to manufacture nor the
5 40 rights to manufacture the patented property. For
5 41 purposes of this paragraph, special purpose tooling
5 42 includes dies, jigs, fixtures, molds, patterns, and
5 43 similar property. The assessor shall not take into
5 44 consideration the special value or use value to the
5 45 present owner of the special purpose tooling which is
5 46 designed and intended solely for the manufacture of
5 47 property protected by a patent in arriving at the
5 48 actual value of the special purpose tooling.

5 49 c. In determining the purchase price of a
5 50 structure, the assessor shall consider whether the
6 1 sale was a fair and reasonable exchange in the year in
6 2 which the property was listed and valued between a
6 3 willing buyer and a willing seller, neither being
6 4 under any compulsion to buy or sell and each being
6 5 familiar with all the facts relating to the particular
6 6 property. Sale prices of the property or comparable
6 7 property in normal transactions reflecting market
6 8 value, and the probable availability or unavailability
6 9 of persons interested in purchasing the property,
6 10 shall be taken into consideration in determining
6 11 purchase price. In determining purchase price, sale
6 12 prices of property in abnormal transactions not
6 13 reflecting market value shall not be taken into
6 14 account, or shall be adjusted to eliminate the effect
6 15 of factors which distort market value, including but
6 16 not limited to sales to immediate family of the
6 17 seller, foreclosure or other forced sales, contract
6 18 sales, or discounted purchase transactions.

6 19 d. If a county enters into a contract before May
6 20 1, 2003, for a comprehensive revaluation by a private
6 21 appraiser and such revaluation is for the assessment
6 22 year beginning January 1, 2006, the valuations
6 23 determined under the comprehensive revaluation for
6 24 that assessment year shall be divided by the
6 25 cumulative inflation factor for the assessment year
6 26 beginning January 1, 2006, and that quotient shall be
6 27 considered the valuation of the property for the
6 28 assessment year beginning January 1, 2005.

6 29 6. Notwithstanding any other provision of this
6 30 section, the assessed value per square foot of a
6 31 structure times the total number of square feet of the
6 32 structure shall not exceed its fair and reasonable
6 33 market value for the assessment year, except for
6 34 agricultural structures which shall be valued
6 35 exclusively as provided in subsection 4.

6 36 7. For purposes of this section:

6 37 a. "Annual inflation factor" means an index,
6 38 expressed as a percentage, determined by the
6 39 department by January 15 of the assessment year for
6 40 which the factor is determined, which reflects the
6 41 purchasing power of the dollar as a result of
6 42 inflation during the twelve-month period ending
6 43 September 30 of the calendar year preceding the
6 44 assessment year for which the factor is determined.
6 45 In determining the annual inflation factor, the
6 46 department shall use the annual percent change, but
6 47 not less than zero percent, in the gross domestic
6 48 product price deflator computed for the calendar year
6 49 by the bureau of economic analysis of the United
6 50 States department of commerce and shall add all of
7 1 that percent change to one hundred percent. The
7 2 annual inflation factor and the cumulative inflation
7 3 factor shall each be expressed as a percentage rounded
7 4 to the nearest one-tenth of one percent. The annual
7 5 inflation factor shall not be less than one hundred
7 6 percent. The annual inflation factor for the 2005
7 7 calendar year is one hundred percent.

7 8 b. "Cumulative inflation factor" means the product
7 9 of the annual inflation factor for the 2005 calendar
7 10 year and all annual inflation factors for subsequent
7 11 calendar years as determined pursuant to this
7 12 subsection. The cumulative inflation factor applies
7 13 to the assessment year beginning on January 1 of the
7 14 calendar year for which the latest annual inflation
7 15 factor has been determined.

7 16 c. "Newly constructed" includes, but is not
7 17 limited to, structural replacement, additions that
7 18 substantially increase the square footage, conversion

7 19 into another class of property, and conversion from
7 20 exempt property under section 427.1 to taxable
7 21 property. For commercial and industrial property,
7 22 "newly constructed" also includes an addition or
7 23 removal to a structure of personal property taxed as
7 24 real estate under chapter 427A.

7 25 d. "Structure" means any part of that which is
7 26 built or constructed, an edifice or building of any
7 27 kind, or any piece of work artificially built up or
7 28 composed of parts joined together in some definite
7 29 manner. For residential structures, structure
7 30 includes only those parts of the structure, including
7 31 basements and attics, that are or could be used as
7 32 living space. "Structure" does not include the land
7 33 beneath, or horizontal improvements relating to the
7 34 structure, such as sidewalks, sewers, or retaining
7 35 walls.

7 36 8. For the purpose of computing the debt
7 37 limitations for municipalities, political
7 38 subdivisions, and school districts, the term "actual
7 39 value" means the "actual value" as determined under
7 40 this section without application of any percentage
7 41 reduction and entered opposite each item, and as
7 42 listed on the tax list as provided in section 443.2,
7 43 as "actual value".

7 44 Whenever any board of review or other tribunal
7 45 changes the assessed value of property, all applicable
7 46 records of assessment shall be adjusted to reflect
7 47 such change in both assessed value and actual value of
7 48 such property.

7 49 9. The provisions of this chapter and chapters
7 50 443, 443A, and 444 shall be subject to legislative
8 1 review at least once every five years. The review
8 2 shall be based upon a property tax status report
8 3 containing the recommendations of a property tax
8 4 implementation committee appointed to conduct a review
8 5 of the land tax, square footage tax, the baseline
8 6 assessment for the square footage tax, and other
8 7 related provisions, to be prepared with the assistance
8 8 of the departments of management and revenue and
8 9 finance. The report shall include recommendations for
8 10 changes or revisions based upon demographic changes
8 11 and property tax valuation fluctuations observed
8 12 during the preceding five-year interval, and a summary
8 13 of issues that have arisen since the previous review
8 14 and potential approaches for their resolution. The
8 15 first such report shall be submitted to the general
8 16 assembly no later than January 1, 2010, with
8 17 subsequent reports developed and submitted by January
8 18 1 at least every fifth year thereafter.

8 19 Sec. 4. NEW SECTION. 441.21A PROPERTY
8 20 CLASSIFICATIONS.

8 21 1. a. Agricultural land shall be valued at its
8 22 productivity value. The productivity value of
8 23 agricultural land shall be determined on the basis of
8 24 productivity and net earning capacity of the land
8 25 determined on the basis of its use for agricultural
8 26 purposes capitalized at a rate of seven percent and
8 27 applied uniformly among counties and among classes of
8 28 property. Any formula or method employed to determine
8 29 productivity and net earning capacity of land shall be
8 30 adopted in full by rule.

8 31 b. In counties or townships in which field work on
8 32 a modern soil survey has been completed since January
8 33 1, 1949, the assessor shall place emphasis upon the
8 34 results of the survey in spreading the valuation among
8 35 individual parcels of such agricultural land.

8 36 c. "Agricultural land" includes the land of a
8 37 vineyard.

8 38 2. a. "Residential property" includes all lands
8 39 and buildings which are primarily used or intended for
8 40 human habitation, including those buildings located on
8 41 agricultural land. Buildings used primarily or
8 42 intended for human habitation shall include the
8 43 dwelling as well as structures and improvements used
8 44 primarily as a part of, or in conjunction with, the
8 45 dwelling. This includes but is not limited to
8 46 garages, whether attached or detached, tennis courts,
8 47 swimming pools, guest cottages, and storage sheds for
8 48 household goods. Residential property located on
8 49 agricultural land shall include only buildings.

8 50 b. "Residential property" includes all land and
9 1 buildings of multiple housing cooperatives organized
9 2 under chapter 499A and includes land and buildings
9 3 used primarily for human habitation which land and
9 4 buildings are owned and operated by organizations that
9 5 have received tax-exempt status under section
9 6 501(c)(3) of the Internal Revenue Code and rental
9 7 income from the property is not taxed as unrelated
9 8 business income under section 422.33, subsection 1A.

9 9 c. "Residential property" includes an apartment in
9 10 a horizontal property regime referred to in chapter
9 11 499B which is used or intended for use for human
9 12 habitation regardless of who occupies the apartment.
9 13 Existing structures shall not be converted to a
9 14 horizontal property regime unless applicable building
9 15 code requirements have been met.

9 16 d. Buildings for human habitation that are used as
9 17 commercial ventures, including but not limited to
9 18 hotels, motels, rest homes, and structures containing
9 19 three or more separate living quarters shall not be
9 20 considered residential property.

9 21 Sec. 5. Section 441.23, Code 2003, is amended to
9 22 read as follows:

9 23 441.23 NOTICE OF VALUATION.

9 24 If there has been an increase or decrease in the
9 25 valuation of the property, or upon the written request
9 26 of the person assessed, the assessor shall, at the
9 27 time of making the assessment, inform the person
9 28 assessed, in writing, of the valuation put upon the
9 29 taxpayer's property, and notify the person, if the
9 30 person feels aggrieved, to appear before the board of
9 31 review and show why the assessment should be changed.
9 32 However, if the valuation of ~~a class of~~ agricultural
9 33 property is uniformly decreased, the assessor may
9 34 notify the affected property owners by publication in
9 35 the official newspapers of the county. The owners of
9 36 real property shall be notified not later than April
9 37 15 of any adjustment of the real property assessment.
9 38 The notification shall include a supplemental return
9 39 form for the person to list the person's property and
9 40 any additions or modifications completed in the prior
9 41 year to a structure located on the property, as
9 42 required in section 441.19.

9 43 Sec. 6. Section 441.24, Code 2003, is amended to
9 44 read as follows:

9 45 441.24 REFUSAL TO FURNISH STATEMENT.

9 46 1. If a person refuses to furnish the verified
9 47 statements required in connection with the assessment
9 48 of property by the assessor, or to list the
9 49 corporation's or person's property, the director of
9 50 revenue and finance, or assessor, as the case may be,
10 1 shall proceed to list and assess the property
10 2 according to the best information obtainable, and
10 3 shall add to the ~~taxable~~ agricultural land and square
10 4 footage valuation one hundred percent thereof, which
10 5 valuation and penalty shall be separately shown, and
10 6 shall constitute the assessment; and if the
10 7 agricultural land or square footage valuation of the
10 8 property is changed by a board of review, or on appeal
10 9 from a board of review, a like penalty shall be added
10 10 to the valuation thus fixed.

10 11 2. However, all or part of the penalty imposed
10 12 under this section may be waived by the board of
10 13 review upon application to the board by the assessor
10 14 or the property owner. The waiver or reduction in the
10 15 penalty shall be allowed only on the agricultural land
10 16 or the square footage valuation of ~~real property~~ the
10 17 structure against which the penalty has been imposed.

10 18 Sec. 7. Section 441.26, unnumbered paragraph 3,
10 19 Code 2003, is amended to read as follows:

10 20 The notice in ~~1981~~ 2007 and each odd-numbered year
10 21 thereafter shall contain a statement that ~~the~~
10 22 agricultural property assessments and property
10 23 assessed pursuant to section 441.21, subsection 2,
10 24 paragraph "b", subparagraph (1), and subsection 3,
10 25 paragraph "b", subparagraph (1), are subject to
10 26 equalization pursuant to an order issued by the
10 27 director of revenue and finance, that the county
10 28 auditor shall give notice on or before October 15 by
10 29 publication in an official newspaper of general
10 30 circulation to any ~~class of~~ agricultural property

10 31 affected by the equalization order, and that the board
10 32 of review shall be in session from October 15 to
10 33 November 15 to hear protests of affected property
10 34 owners or taxpayers whose valuations have been
10 35 adjusted by the equalization order.
10 36 Sec. 8. Section 441.26, unnumbered paragraphs 4
10 37 and 5, Code 2003, are amended to read as follows:
10 38 The assessment rolls shall be used in listing the
10 39 property, the number of structures, and the total
10 40 square footage of the structures by class of property,
10 41 and showing the values affixed to agricultural land
10 42 and the assessed value per square foot affixed to the
10 43 property the structures by class of property of all
10 44 persons assessed. The rolls shall be made in
10 45 duplicate. The duplicate roll shall be signed by the
10 46 assessor, detached from the original and delivered to
10 47 the person assessed if there has been an increase or
10 48 decrease in the valuation of the property. If there
10 49 has been no change in the evaluation, the information
10 50 on the roll may be printed on computer stock paper and
11 1 preserved as required by this chapter. If the person
11 2 assessed requests in writing a copy of the roll, the
11 3 copy shall be provided to the person. The pages of
11 4 the assessor's assessment book shall contain columns
11 5 ruled and headed for the information required by this
11 6 chapter and that which the director of revenue and
11 7 finance deems essential in the equalization work of
11 8 the director. The assessor shall return all
11 9 assessment rolls and schedules to the county auditor,
11 10 along with the completed assessment book, as provided
11 11 in this chapter, and the county auditor shall
11 12 carefully keep and preserve the rolls, schedules and
11 13 book for a period of five years from the time of its
11 14 filing in the county auditor's office.
11 15 Beginning with valuations for January 1, ~~1977~~ 2006,
11 16 and each succeeding year, for each parcel of
11 17 agricultural property and for each structure entered
11 18 in the assessment book, the assessor shall list the
11 19 classification of the property.
11 20 Sec. 9. Section 441.35, subsection 1, Code 2003,
11 21 is amended by striking the subsection.
11 22 Sec. 10. Section 441.35, unnumbered paragraph 2,
11 23 Code 2003, is amended by striking the unnumbered
11 24 paragraph.
11 25 Sec. 11. Section 441.36, Code 2003, is amended to
11 26 read as follows:
11 27 441.36 CHANGE OF ASSESSMENT == NOTICE.
11 28 All changes in assessments authorized by the board
11 29 of review, and reasons therefor, shall be entered in
11 30 the minute book kept by ~~said the~~ board and on the
11 31 assessment roll. ~~Said The~~ minute book shall be filed
11 32 with the assessor after the adjournment of the board
11 33 of review and shall at all times be open to public
11 34 inspection. In case the value of any specific
11 35 property or structure or the entire assessment of any
11 36 person, partnership, or association is increased, or
11 37 new property or a new structure is added by the board,
11 38 the clerk shall give immediate notice thereof by mail
11 39 to each at the post-office address shown on the
11 40 assessment rolls, and at the conclusion of the action
11 41 of the board therein the clerk shall post an
11 42 alphabetical list of those whose assessments are thus
11 43 raised and added, in a conspicuous place in the office
11 44 or place of meeting of the board, and enter upon the
11 45 records a statement that such posting has been made,
11 46 which entry shall be conclusive evidence of the giving
11 47 of the notice required. The board shall hold an
11 48 adjourned meeting, with at least five days intervening
11 49 after the posting of ~~said the~~ notices, before final
11 50 action with reference to the raising of assessments or
12 1 the adding of property or structures to the rolls is
12 2 taken, and the posted notices shall state the time and
12 3 place of holding such adjourned meeting, which time
12 4 and place shall also be stated in the proceedings of
12 5 the board.
12 6 Sec. 12. Section 441.37, subsection 1, paragraphs
12 7 a and b, Code 2003, are amended to read as follows:
12 8 a. That ~~said the~~ assessment is not equitable as
12 9 compared with assessments of other like property or
12 10 structures in the taxing district. When this ground
12 11 is relied upon as the basis of a protest the legal

12 12 description and assessments of a representative number
12 13 of comparable ~~properties~~ structures, as described by
12 14 the aggrieved taxpayer shall be listed on the protest,
12 15 otherwise ~~said~~ the protest shall not be considered on
12 16 this ground.

12 17 b. That the property or structure is assessed for
12 18 more than the value authorized by law, stating the
12 19 specific amount which the protesting party believes
12 20 the property or structure to be overassessed, and the
12 21 amount which the party considers to be its actual
12 22 value and the amount the party considers a fair
12 23 assessment.

12 24 Sec. 13. Section 441.39, Code 2003, is amended to
12 25 read as follows:

12 26 441.39 TRIAL ON APPEAL.

12 27 The court shall hear the appeal in equity and
12 28 determine anew all questions arising before the board
12 29 which relate to the liability of the property or
12 30 structure to assessment or the amount thereof. The
12 31 court shall consider all of the evidence and there
12 32 shall be no presumption as to the correctness of the
12 33 ~~valuation of~~ assessment appealed from. Its decision
12 34 shall be certified by the clerk of the court to the
12 35 county auditor, and the assessor, who shall correct
12 36 the assessment books accordingly.

12 37 Sec. 14. Section 441.42, Code 2003, is amended to
12 38 read as follows:

12 39 441.42 APPEAL ON BEHALF OF PUBLIC.

12 40 Any officer of a county, city, township, drainage
12 41 district, levee district, or school district
12 42 interested or a taxpayer thereof may in like manner
12 43 make complaint before ~~said~~ the board of review in
12 44 respect to the assessment of any property or structure
12 45 in the township, drainage district, levee district or
12 46 city and an appeal from the action of the board of
12 47 review in fixing the amount of assessment on any
12 48 property or structure concerning which such complaint
12 49 is made, may be taken by any of such aforementioned
12 50 officers.

13 1 Such appeal is in addition to the appeal allowed to
13 2 the person whose property or structure is assessed and
13 3 shall be taken in the name of the county, city,
13 4 township, drainage district, levee district, or school
13 5 district interested, and tried in the same manner,
13 6 except that the notice of appeal shall also be served
13 7 upon the owner of the property or structure concerning
13 8 which the complaint is made and affected thereby or
13 9 person required to return said property or structure
13 10 for assessment.

13 11 Sec. 15. Section 441.43, Code 2003, is amended to
13 12 read as follows:

13 13 441.43 POWER OF COURT.

13 14 Upon trial of any appeal from the action of the
13 15 board of review fixing the amount of assessment upon
13 16 any property or structure concerning which complaint
13 17 is made, the court may increase, decrease, or affirm
13 18 the amount of the assessment appealed from.

13 19 Sec. 16. Section 441.45, subsections 1 and 2, Code
13 20 2003, are amended to read as follows:

13 21 1. The number of acres of land and the aggregate
13 22 taxable values of the agricultural land, ~~exclusive of~~
13 23 ~~city lots~~, returned by the assessors, as corrected by
13 24 the board of review.

13 25 2. The aggregate values of structures and the
13 26 taxable square footage values of ~~real estate~~
13 27 structures by class in each township and city in the
13 28 county and the aggregate value of agricultural land in
13 29 each township and city in the county, returned as
13 30 corrected by the board of review.

13 31 Sec. 17. Section 441.47, Code 2003, is amended by
13 32 adding the following new unnumbered paragraph:

13 33 NEW UNNUMBERED PARAGRAPH. For the assessment year
13 34 beginning January 1, 2007, and for all subsequent
13 35 assessment years, only property classified as
13 36 agricultural property and property assessed pursuant
13 37 to section 441.21, subsection 2, paragraph "b",
13 38 subparagraph (1), and subsection 3, paragraph "b",
13 39 subparagraph (1), shall be subject to equalization by
13 40 the director of revenue and finance under this section
13 41 and sections 441.48 and 441.49.

13 42 Sec. 18. NEW SECTION. 441.47A EQUALIZATION OF

13 43 INFLATION FACTORS.

13 44 The director of revenue and finance on or about
13 45 August 15, 2007, and every two years thereafter, shall
13 46 order the equalization of the assessed value per
13 47 square foot resulting from the application of the
13 48 cumulative inflation factor in the several assessing
13 49 jurisdictions in each case as may be necessary to
13 50 bring such values as fixed by the assessor in cases of
14 1 purchases of property and newly constructed property
14 2 to the values determined for the assessment year
14 3 beginning January 1, 2005. In equalizing the effects
14 4 of the application of the cumulative inflation factor,
14 5 the department shall make use of reports issued by
14 6 Iowa state university of science and technology which
14 7 reports shall more precisely indicate, on a county-by-
14 8 county basis, annual and cumulative inflation factors
14 9 for each county. If the cumulative inflation factor
14 10 for an assessing jurisdiction as reported by Iowa
14 11 state university of science and technology is five
14 12 percent above or below the cumulative inflation factor
14 13 as defined in section 441.21, subsection 7, the
14 14 director shall notify the assessor by mail of the
14 15 equalization of the effects of the cumulative
14 16 inflation factor for the assessing jurisdiction. The
14 17 assessor shall recompute the assessments made pursuant
14 18 to section 441.21, subsection 2, paragraph "b",
14 19 subparagraph (1), subsection 3, paragraph "b",
14 20 subparagraph (1), and subsection 4, paragraph "b",
14 21 subparagraph (1), by applying the equalized inflation
14 22 factor. The assessor shall send notice of the
14 23 equalized assessments to all affected property owners.

14 24 Sec. 19. Section 441.50, Code 2003, is amended to
14 25 read as follows:

14 26 441.50 APPRAISERS EMPLOYED.

14 27 The conference board shall have power to employ
14 28 appraisers or other technical or expert help to assist
14 29 in the valuation assessment of property as provided in
14 30 section 441.21, the cost thereof to be paid in the
14 31 same manner as other expenses of the assessor's
14 32 office. The conference board may certify for levy
14 33 annually an amount not to exceed forty and one-half
14 34 cents per thousand dollars of assessed value of
14 35 taxable property for the purpose of establishing a
14 36 special appraiser's fund, to be used only for such
14 37 purposes. From time to time the conference board may
14 38 direct the transfer of any unexpended balance in the
14 39 special appraiser's fund to the assessment expense
14 40 fund.

14 41 Sec. 20. Section 443.1, Code 2003, is amended to
14 42 read as follows:

14 43 443.1 CONSOLIDATED TAX.

14 44 All square footage taxes which are uniform
14 45 throughout any township or school district shall be
14 46 formed into a single tax and entered upon the tax list
14 47 in a single column, to be known as a consolidated tax,
14 48 and each receipt shall show the percentage levied for
14 49 each separate fund. The land tax shall be separately
14 50 stated and each receipt shall show the percentage
15 1 levied for each separate fund.

15 2 Sec. 21. Section 443.2, Code 2003, is amended to
15 3 read as follows:

15 4 443.2 TAX LIST.

15 5 Before the first day of July in each year, the
15 6 county auditor shall transcribe the assessments of the
15 7 townships and cities into a book or record, to be
15 8 known as the tax list, properly ruled and headed, with
15 9 separate columns, in which shall be entered the names
15 10 of the taxpayers, descriptions of lands, number of
15 11 acres and value, numbers of city lots, their size in
15 12 acres, and value, and each description of the square
15 13 footage tax and the land tax, with a column for polls
15 14 and one for payments, and shall complete it by
15 15 entering the amount due on each installment,
15 16 separately, and carrying out the total of both
15 17 installments. The total of all columns of each page
15 18 of each book or other record shall balance with the
15 19 tax totals. After computing the amount of land tax
15 20 and square footage tax due and payable on each
15 21 property, the county auditor shall round the total
15 22 amount of ~~tax~~ taxes due and payable on the property to
15 23 the nearest even whole dollar.

15 24 The county auditor shall list the aggregate actual
15 25 value and the aggregate taxable value of all taxable
15 26 property within the county and each political
15 27 subdivision including property subject to the
15 28 statewide property tax imposed under section 437A.18
15 29 on the tax list in order that the actual value of the
15 30 taxable property within the county or a political
15 31 subdivision may be ascertained and shown by the tax
15 32 list for the purpose of computing the debt-incurring
15 33 capacity of the county or political subdivision. As
15 34 used in this section, "actual value" is the value
15 35 determined under section 441.21, subsections 1 to 3,
15 36 Code 2005, prior to the reduction to a percentage of
15 37 actual value as otherwise provided in section 441.21,
15 38 Code 2005. "Actual value" of property subject to
15 39 statewide property tax is the assessed value under
15 40 section 437A.18.

15 41 Sec. 22. Section 443.3, Code 2003, is amended to
15 42 read as follows:

15 43 443.3 CORRECTION == TAX APPORTIONED.

15 44 At the time of transcribing ~~said the~~ assessments
15 45 into the tax list, the county auditor shall correct
15 46 all transfers up to date and place the legal
15 47 descriptions of all real estate in the name of the
15 48 owner at ~~said that~~ date as shown by the transfer book
15 49 in the auditor's office. At the end of the list for
15 50 each township or city the auditor shall make an
16 1 abstract thereof, and apportion the consolidated tax
16 2 among the respective funds to which it belongs,
16 3 according to the amounts levied for each. The auditor
16 4 shall apportion the land tax as prescribed in section
16 5 443A.2.

16 6 Sec. 23. Section 443.6, Code 2003, is amended to
16 7 read as follows:

16 8 443.6 CORRECTIONS BY AUDITOR.

16 9 The auditor may correct any error in the assessment
16 10 or tax list, and the assessor or auditor may list for
16 11 taxation any omitted land and may assess and list for
16 12 taxation any omitted property structure.

16 13 Sec. 24. Section 443.7, Code 2003, is amended to
16 14 read as follows:

16 15 443.7 NOTICE.

16 16 Before listing for taxation any omitted land and
16 17 before assessing and listing for taxation any omitted
16 18 property structure, the assessor or auditor shall
16 19 notify by mail the person in whose name the ~~property~~
16 20 land or structure is taxed, to appear before the
16 21 assessor or auditor at the assessor's or auditor's
16 22 office within ten days from the date of the notice and
16 23 show cause, if any, why the correction or assessment
16 24 should not be made.

16 25 Sec. 25. Section 443.9, Code 2003, is amended to
16 26 read as follows:

16 27 443.9 ADJUSTMENT OF ACCOUNTS.

16 28 If such correction or assessment is made after the
16 29 books or other records approved by the ~~state~~ auditor
16 30 of state have passed into the hands of the treasurer,
16 31 the treasurer shall be charged or credited therefor as
16 32 the case may be. In the event such listing of omitted
16 33 land or listing and assessment of omitted property

16 34 structure is made by the assessor after the tax
16 35 records have passed into the hands of the auditor or
16 36 treasurer, such correction or assessment shall be
16 37 entered on the records by the auditor or treasurer.

16 38 Sec. 26. Section 443.12, Code 2003, is amended to
16 39 read as follows:

16 40 443.12 CORRECTIONS BY TREASURER.

16 41 When property land or a structure subject to
16 42 taxation is withheld, overlooked, or from any other
16 43 cause is not listed, or is not listed and assessed,
16 44 the county treasurer shall, when apprised thereof, at
16 45 any time within two years from the date at which such
16 46 listing and assessment should have been made, demand
16 47 of the person, firm, corporation, or other party by
16 48 whom the same should have been listed, or to whom it
16 49 should have been listed and assessed, or of the
16 50 administrator thereof, the amount the property land or
17 1 structure should have been taxed in each year the same
17 2 was so withheld or overlooked and not listed or not
17 3 listed and assessed, together with six percent
17 4 interest thereon from the time the taxes would have

17 5 become due and payable had such ~~property land~~ been
17 6 listed or such structure been listed and assessed.
17 7 Sec. 27. Section 443.13, Code 2003, is amended to
17 8 read as follows:
17 9 443.13 ACTION BY TREASURER == APPORTIONMENT.
17 10 Upon failure to pay such sum within thirty days,
17 11 with all accrued interest, the treasurer shall cause
17 12 an action to be brought in the name of the treasurer
17 13 for the use of the proper county, to be prosecuted by
17 14 the county attorney, or such other person as the board
17 15 of supervisors may appoint, and when such ~~property~~
17 16 ~~land~~ has been fraudulently withheld from listing or
17 17 such structure fraudulently withheld from listing and
17 18 assessment, there shall be added to the sum found to
17 19 be due a penalty of fifty percent upon the amount,
17 20 which shall be included in the judgment. The amount
17 21 thus recovered shall be by the treasurer apportioned
17 22 ratably as the taxes would have been if they had been
17 23 paid according to law.
17 24 Sec. 28. Section 443.14, Code 2003, is amended to
17 25 read as follows:
17 26 443.14 DUTY OF TREASURER.
17 27 The treasurer shall assess any ~~real property~~
17 28 structure and shall list the acreage of any land
17 29 subject to taxation which may have been omitted by the
17 30 assessor, board of review, or county auditor, and
17 31 collect taxes thereon, and in such cases shall note,
17 32 opposite the tract or lot assessed, the words "by
17 33 treasurer".
17 34 Sec. 29. Section 443.15, Code 2003, is amended to
17 35 read as follows:
17 36 443.15 TIME LIMIT.
17 37 The assessment shall be made within two years after
17 38 the tax list shall have been delivered to the
17 39 treasurer for collection, and not afterwards, if the
17 40 ~~property land or structure~~ is then owned by the person
17 41 who should have paid the tax.
17 42 Sec. 30. Section 443.17, Code 2003, is amended to
17 43 read as follows:
17 44 443.17 PRESUMPTION OF TWO-YEAR OWNERSHIP.
17 45 In any action or proceeding, now pending or
17 46 hereafter brought, to recover taxes upon ~~property land~~
17 47 ~~not listed or agricultural land or a structure not~~
17 48 listed and assessed for taxation during the lifetime
17 49 of any decedent, it shall be presumed that any
17 50 property, any evidence of ownership of property, and
18 1 any evidence of a promise to pay, owned by a decedent
18 2 at the date of the decedent's death, had been acquired
18 3 and owned by such decedent more than two years before
18 4 the date of the decedent's death; and the burden of
18 5 proving that any such property had been acquired by
18 6 such decedent less than two years before the date of
18 7 the decedent's death shall be upon the heirs,
18 8 legatees, and legal representatives of any such
18 9 decedent.
18 10 Sec. 31. Section 443.18, Code 2003, is amended to
18 11 read as follows:
18 12 443.18 REAL ESTATE == DUTY OF OWNER.
18 13 In all cases where ~~real estate land~~ subject to
18 14 taxation has not been listed or agricultural land or a
18 15 structure subject to taxation has not been listed and
18 16 assessed, the owner, or an agent of the owner, shall
18 17 have the same done by the treasurer, and pay the taxes
18 18 thereon; and if the owner fails to do so the treasurer
18 19 shall list or list and assess the same and collect the
18 20 tax assessed as the treasurer does other taxes.
18 21 Sec. 32. Section 443.19, Code 2003, is amended to
18 22 read as follows:
18 23 443.19 IRREGULARITIES, ERRORS AND OMISSIONS ==
18 24 EFFECT.
18 25 ~~No~~ A failure of the owner to have such ~~property~~
18 26 land listed or agricultural land or structure listed
18 27 and assessed or to have the errors in the listing or
18 28 assessment corrected, and ~~no~~ an irregularity, error or
18 29 omission in the listing of such land or listing and
18 30 assessment of such ~~property agricultural land or~~
18 31 structure, shall not affect in any manner the legality
18 32 of the taxes levied thereon, or affect any right or
18 33 title to such ~~real estate property~~ which would have
18 34 accrued to any party claiming or holding under and by
18 35 virtue of a deed executed by the treasurer as provided

18 36 by this title, had the listing and assessment of such
18 37 property been in all respects regular and valid.

18 38 Sec. 33. Section 443.21, Code 2003, is amended to
18 39 read as follows:

18 40 443.21 ASSESSMENTS CERTIFIED TO COUNTY AUDITOR.

18 41 All assessors and assessing bodies, including the
18 42 department of revenue and finance having authority
18 43 over the listing of land or listing and assessment of
18 44 ~~property~~ agricultural land and structures for tax
18 45 purposes shall certify to the county auditor of each
18 46 county the number of acres of land and the assessed
18 47 values of agricultural land and structures for all the
18 48 taxable property in such county as finally ~~equalized~~
~~18 49 and~~ determined, and the same shall be transcribed onto
18 50 the tax lists as required by section 443.2.

19 1 Sec. 34. Section 443.22, Code 2003, is amended to
19 2 read as follows:

19 3 443.22 UNIFORM ASSESSMENTS MANDATORY.

19 4 All assessors and assessing bodies, including the
19 5 department of revenue and finance having authority
19 6 over the listing of land and listing and assessment of
19 7 ~~property~~ agricultural land and structures for tax
19 8 purposes, shall comply with sections 428.4, 428.29,
19 9 434.15, 438.13, 441.21, and 441.45. The department of
19 10 revenue and finance, having authority over the listing
~~19 11 and~~ assessments, shall exercise its powers and perform
19 12 its duties under section 421.17 and other applicable
19 13 laws so as to require the uniform and consistent
19 14 application of ~~said that~~ section.

19 15 Sec. 35. NEW SECTION. 443A.1 LAND TAX.

19 16 Effective for the fiscal year beginning July 1,
19 17 2007, and all subsequent fiscal years, a land tax
19 18 shall be imposed against each acre or portion of an
19 19 acre of land in a county.

19 20 Sec. 36. NEW SECTION. 443A.2 APPORTIONMENT OF
19 21 LAND TAX.

19 22 1. The land tax for each county shall be
19 23 apportioned as follows:

19 24 In the unincorporated area of the county, the land
19 25 tax shall be distributed to the county, the school
19 26 district located in the unincorporated area of the
19 27 county, and other taxing entities located in the
19 28 unincorporated area of the county in the same
19 29 proportion that property taxes levied in the
19 30 unincorporated area of the county for the fiscal year
19 31 beginning July 1, 2006, were allocated to those
19 32 entities.

19 33 In the incorporated areas of the county, the land
19 34 tax shall be distributed to the city, the county, each
19 35 school district located within the city, and other
19 36 taxing entities located within the city in the same
19 37 proportion that property taxes levied in the city for
19 38 the fiscal year beginning July 1, 2006, were allocated
19 39 to those entities.

19 40 2. The city finance committee and the county
19 41 finance committee shall jointly determine the
19 42 adjustments to be made to the allocation of the land
19 43 tax in the case of boundary adjustments made to a
19 44 taxing district on or after January 1, 2006.

19 45 3. After the auditor has computed the amount of
19 46 land tax to be distributed to each taxing district,
19 47 the auditor shall compute the rate of tax to be levied
19 48 upon the square footage valuation of structures
19 49 pursuant to chapter 444.

19 50 Sec. 37. Section 444.1, Code 2003, is amended to
20 1 read as follows:

20 2 444.1 BASIS FOR AMOUNT OF TAX.

20 3 In all taxing districts in the state, including
20 4 townships, school districts, cities and counties, when
20 5 by law then existing the people are authorized to
20 6 determine by vote, or officers are authorized to
20 7 estimate or determine, a rate of taxation required for
20 8 any public purpose, such rate shall in all cases be
20 9 estimated and based upon the amount of land tax
~~20 10 available to the district and the~~ adjusted taxable
20 11 square footage valuation of such taxing district for
20 12 the preceding calendar year.

20 13 Sec. 38. Section 444.2, Code 2003, is amended to
20 14 read as follows:

20 15 444.2 AMOUNTS CERTIFIED IN DOLLARS.
20 16 When an authorized square footage tax rate within a

20 17 taxing district, including townships, school
20 18 districts, cities and counties, has been thus
20 19 determined as provided by law, the officer or officers
20 20 charged with the duty of certifying the authorized
20 21 rate to the county auditor or board of supervisors
20 22 shall, before certifying the rate, compute upon the
20 23 adjusted taxable square footage valuation of the
20 24 taxing district for the preceding fiscal year, the
20 25 amount of tax the rate will raise, stated in dollars,
20 26 and shall certify the computed amount in dollars and
20 27 not by rate, to the county auditor and board of
20 28 supervisors and shall further certify the percentage
20 29 of such amount to be levied against each class of
20 30 property.

20 31 Sec. 39. Section 444.3, Code 2003, is amended to
20 32 read as follows:

20 33 444.3 COMPUTATION OF SQUARE FOOTAGE RATE.

20 34 When the square footage valuations for the several
20 35 taxing districts shall have been adjusted by the
20 36 several boards for the current year, and the amount of
20 37 land tax to be distributed to each taxing district has
20 38 been deducted from the dollar amounts certified in
20 39 section 444.2 for each taxing district, the county
20 40 auditor shall thereupon apply such a rate, not
20 41 exceeding the rate authorized by law, or rates as will
20 42 raise the amount required for such taxing district,
20 43 and when combined with the land tax amount will raise
20 44 an amount not exceeding the dollar amount authorized
20 45 by law for the taxing district, and no will not raise
20 46 a larger amount. For purposes of computing the square
20 47 footage rate under this section, the adjusted taxable
20 48 square footage valuation of the property of a taxing
20 49 district does not include the valuation of property of
20 50 a railway corporation or its trustee which corporation
21 1 has been declared bankrupt or is in bankruptcy
21 2 proceedings. Nothing in the preceding sentence
21 3 exempts the property of such railway corporation or
21 4 its trustee from taxation and the rate computed under
21 5 this section shall be levied on the taxable property
21 6 of such railway corporation or its trustee.
21 7 The square footage tax rate shall be expressed in
21 8 dollars and cents per one hundred dollars of valuation
21 9 per square foot.

21 10 Sec. 40. NEW SECTION. 444.9 COMPUTATION OF TAX.

21 11 The amount of tax imposed on any taxable property
21 12 is the sum of the amounts computed in subsections 1
21 13 and 2.

21 14 1. LAND TAX. The product of the land tax rate
21 15 times the number of acres or portion of an acre of the
21 16 taxable property.

21 17 2. SQUARE FOOTAGE TAX. The product of the square
21 18 footage tax rate times the valuation per square foot
21 19 of the taxable structure times the number of square
21 20 feet of the taxable structure. The square footage tax
21 21 shall be computed separately for each structure
21 22 located on the land.

21 23 Sec. 41. PROPERTY TAX IMPLEMENTATION COMMITTEE.

21 24 1. On or before July 1, 2003, the department of
21 25 revenue and finance, in consultation with the
21 26 department of management, shall initiate and
21 27 coordinate the establishment of a property tax
21 28 implementation committee and provide staffing
21 29 assistance to the committee. The property tax
21 30 implementation committee shall include four members of
21 31 the general assembly, one each appointed by the
21 32 majority leader of the senate, the speaker of the
21 33 house of representatives, the minority leader of the
21 34 senate, and the minority leader of the house of
21 35 representatives. The committee shall also include
21 36 members appointed by the department of revenue and
21 37 finance representing the department of revenue and
21 38 finance, the department of management, counties,
21 39 cities, school districts, local assessors, commercial
21 40 property taxpayers, residential property taxpayers,
21 41 and agricultural property taxpayers, and other
21 42 appropriate stakeholders. The department may consider
21 43 participation on the committee of former state
21 44 officials with expertise in budget and tax policy.
21 45 The chairpersons of the committee shall be those
21 46 members of the general assembly appointed by the
21 47 majority leader of the senate and the speaker of the

21 48 house of representatives.
 21 49 2. The committee shall study and make
 21 50 recommendations relating to the land tax, square
 22 1 footage tax, the baseline assessment for the square
 22 2 footage tax, and other related provisions. The
 22 3 committee shall also study and make recommendations on
 22 4 issues relating to implementation of a land tax and
 22 5 square footage tax, including, but not limited to,
 22 6 whether or not maximum square footage rates and land
 22 7 tax rates should be imposed and, if such rates are
 22 8 recommended, the imposition of rates that have a
 22 9 revenue neutral impact on classes of property, the
 22 10 property tax financing portion of the school funding
 22 11 formula, treatment of current property tax credits and
 22 12 exemptions under a land tax and square footage tax and
 22 13 continued state reimbursement of any credits or
 22 14 exemptions, implementation of urban revitalization and
 22 15 urban renewal programs under the land tax and square
 22 16 footage tax, implementation of a payment in lieu of
 22 17 taxes program for local government services, and
 22 18 maintenance of equity among classes of taxpayers and
 22 19 among taxpayers within the same class. The property
 22 20 tax implementation committee shall also study the role
 22 21 of property taxes in funding local government services
 22 22 and the types of services currently funded by property
 22 23 taxes.

22 24 3. The property tax implementation committee shall
 22 25 direct three counties and cities within those counties
 22 26 to submit data as prescribed by the committee. The
 22 27 department of revenue and finance, in consultation
 22 28 with the department of management, shall select the
 22 29 three counties and the cities within those counties
 22 30 that will be required to provide data to the
 22 31 committee. The committee shall devise a system for
 22 32 testing the data, including the necessary computer
 22 33 hardware and software to allow the selected counties
 22 34 and cities to prepare projected budgets, to determine
 22 35 the rates for the land tax and the square footage tax
 22 36 for those projected budgets, and to provide a sampling
 22 37 of the effect on the various classes of property in
 22 38 those jurisdictions. The committee shall use the data
 22 39 and the results of the projections to resolve, and
 22 40 make recommendations relating to, the issues described
 22 41 in subsection 2, and related issues, in a revenue
 22 42 neutral manner that will not result in a shift of
 22 43 property tax burden between classes of property. The
 22 44 committee shall submit to the general assembly by
 22 45 October 31, 2003, October 31, 2004, and October 31,
 22 46 2005, a report for each of those years resolving the
 22 47 issues in subsection 2 and other related issues for
 22 48 implementation of this Act. The reports shall include
 22 49 detailed estimates of the cost to the counties and
 22 50 cities of providing the data and an estimate of the
 23 1 cost of statewide implementation of this Act.

23 2 Sec. 42. EFFECTIVE AND APPLICABILITY DATES.

23 3 1. The section of this division of this Act
 23 4 establishing the property tax implementation
 23 5 committee, being deemed of immediate importance, takes
 23 6 effect upon enactment.

23 7 2. The remainder of this division of this Act
 23 8 takes effect July 1, 2005, and applies to assessment
 23 9 years beginning on or after January 1, 2006, and
 23 10 applies to tax collections for fiscal years beginning
 23 11 on or after July 1, 2007.

23 12 Sec. 43. FUTURE REPEAL. This division of this Act
 23 13 is repealed effective June 30, 2005.

23 14 DIVISION II

23 15 INDIVIDUAL INCOME TAX

23 16 2004=2006 TAX YEARS

23 17 Sec. 44. Section 422.5, subsection 1, paragraphs a
 23 18 through i, Code 2003, are amended to read as follows:

23 19 For tax years beginning
 23 20 in the calendar year:
 23 21 2004 2005 2006

23 22 a. On all taxable income from
 23 23 zero through one thousand dollars,
 23 24 ~~thirty-six hundredths of one~~
 23 25 ~~percent~~:35% .34% .33%

23 26 b. On all taxable income exceeding
 23 27 one thousand dollars but not
 23 28 exceeding two thousand dollars,

23 29	seventy-two hundredths of one			
23 30	percent.:	.71%	.68%	.65%
23 31	c. On all taxable income exceeding			
23 32	two thousand dollars but not			
23 33	exceeding four thousand dollars,			
23 34	two and forty-three hundredths			
23 35	percent.:	2.39%	2.30%	2.21%
23 36	d. On all taxable income exceeding			
23 37	four thousand dollars but not			
23 38	exceeding nine thousand dollars,			
23 39	four and one-half percent.:	4.42%	4.25%	4.09%
23 40	e. On all taxable income exceeding			
23 41	nine thousand dollars but not			
23 42	exceeding fifteen thousand			
23 43	dollars, six and twelve hundredths			
23 44	percent.:	6.01%	5.78%	5.56%
23 45	f. On all taxable income exceeding			
23 46	fifteen thousand dollars but not			
23 47	exceeding twenty thousand			
23 48	dollars, six and forty-eight hundredths			
23 49	percent.:	6.36%	6.12%	5.88%
23 50	g. On all taxable income exceeding			
24 1	twenty thousand dollars but not			
24 2	exceeding thirty thousand			
24 3	dollars, six and eight-tenths			
24 4	percent.:	6.68%	6.42%	6.17%
24 5	h. On all taxable income exceeding			
24 6	thirty thousand dollars but not			
24 7	exceeding forty-five thousand			
24 8	dollars, seven and ninety-two hundredths			
24 9	percent.:	7.78%	7.48%	7.19%
24 10	i. On all taxable income exceeding			
24 11	forty-five thousand dollars, eight			
24 12	and ninety-eight hundredths			
24 13	percent.:	8.82%	8.48%	8.15%
24 14	Sec. 45. EFFECTIVE AND APPLICABILITY DATE			
24 15	PROVISIONS. This division of this Act takes effect			
24 16	January 1, 2004, for tax years beginning on or after			
24 17	January 1, 2004, but before January 1, 2007.			
24 18	DIVISION III			
24 19	INDIVIDUAL INCOME TAX			
24 20	2007 AND SUBSEQUENT TAX YEARS			
24 21	Sec. 46. Section 422.5, subsection 1, paragraphs a			
24 22	through i, Code 2003, are amended to read as follows:			
24 23				
24 24	<u>For tax years beginning</u>			
24 25	<u>in the calendar year:</u>			
24 26	<u>2007 and subsequent</u>			
24 27	<u>calendar years</u>			
24 28	a. On all taxable income from			
24 29	zero through one thousand dollars,			
24 30	thirty-six hundredths of one			
24 31	percent.:	.31%		
24 32	b. On all taxable income exceeding			
24 33	one thousand dollars but not			
24 34	exceeding two thousand dollars,			
24 35	seventy-two hundredths of one			
24 36	percent.:	.61%		
24 37	c. On all taxable income exceeding			
24 38	two thousand dollars but not			
24 39	exceeding four thousand dollars,			
24 40	two and forty-three hundredths			
24 41	percent.:	2.06%		
24 42	d. On all taxable income exceeding			
24 43	four thousand dollars but not			
24 44	exceeding nine thousand dollars,			
24 45	four and one-half percent.:	3.81%		
24 46	e. On all taxable income exceeding			
24 47	nine thousand dollars but not			
24 48	exceeding fifteen thousand			
24 49	dollars, six and twelve hundredths			
25 0	percent.:	5.19%		
25 1	f. On all taxable income exceeding			
25 2	fifteen thousand dollars but not			
25 3	exceeding twenty thousand			
25 4	dollars, six and forty-eight hundredths			
25 5	percent.:	5.49%		
25 6	g. On all taxable income exceeding			
25 7	twenty thousand dollars but not			
25 8	exceeding thirty thousand			
25 9	dollars, six and eight-tenths			
25 10	percent.:	5.76%		

25 10 h. On all taxable income exceeding
25 11 thirty thousand dollars but not
25 12 exceeding forty-five thousand
25 13 dollars, ~~seven and ninety-two hundredths~~
~~25 14 percent~~ : 6.71%

25 15 i. On all taxable income exceeding
25 16 forty-five thousand dollars, ~~eight~~
~~25 17 and ninety-eight hundredths~~
~~25 18 percent~~ : 7.61%

25 19 Sec. 47. EFFECTIVE AND APPLICABILITY DATE
25 20 PROVISIONS. This division of this Act takes effect
25 21 January 1, 2007, for tax years beginning on or after
25 22 January 1, 2007.

25 23 DIVISION IV
25 24 INDIVIDUAL INCOME TAX
25 25 2007 AND SUBSEQUENT TAX YEARS

25 26 Sec. 48. Section 422.4, subsection 1, paragraphs b
25 27 and c, Code 2003, are amended to read as follows:

25 28 b. "Cumulative inflation factor" means the product
25 29 of the annual inflation factor for the ~~1988~~ 2007
25 30 calendar year and all annual inflation factors for
25 31 subsequent calendar years as determined pursuant to
25 32 this subsection. The cumulative inflation factor
25 33 applies to all tax years beginning on or after January
25 34 1 of the calendar year for which the latest annual
25 35 inflation factor has been determined.

25 36 c. The annual inflation factor for the ~~1988~~ 2007
25 37 calendar year is one hundred percent.

25 38 Sec. 49. Section 422.4, subsection 2, paragraph b,
25 39 Code 2003, is amended to read as follows:

25 40 b. "Cumulative standard deduction factor" means
25 41 the product of the annual standard deduction factor
25 42 for the ~~1989~~ 2007 calendar year and all annual
25 43 standard deduction factors for subsequent calendar
25 44 years as determined pursuant to this subsection. The
25 45 cumulative standard deduction factor applies to all
25 46 tax years beginning on or after January 1 of the
25 47 calendar year for which the latest annual standard
25 48 deduction factor has been determined.

25 49 Sec. 50. Section 422.4, subsection 16, Code 2003,
25 50 is amended to read as follows:

26 1 16. ~~The words "taxable~~ "Taxable income" ~~mean~~
26 2 the net income as defined in section 422.7 minus the
26 3 deductions allowed by section 422.9, in the case of
26 4 individuals ~~in~~. In the case of estates or trusts,
26 5 ~~the words "taxable income" mean~~ means the taxable
26 6 income ~~(without a deduction for personal exemption)~~ , 26 7 as computed for federal income
tax purposes under the
26 8 Internal Revenue Code, but with the adjustments
26 9 specified in section 422.7 ~~plus the Iowa income tax~~
~~26 10 deducted in computing the federal taxable income and~~
~~26 11 minus federal income taxes as provided in section~~
~~26 12 422.9.~~

26 13 Sec. 51. Section 422.5, subsection 1, Code 2003,
26 14 as amended by 2003 Iowa Acts, Senate File 442, section
26 15 4, is amended by striking the subsection and inserting
26 16 in lieu thereof the following:

26 17 1. a. A tax is imposed upon every resident and
26 18 nonresident of the state which tax shall be levied,
26 19 collected, and paid annually upon and with respect to
26 20 the entire taxable income at rates as follows:

26 21 (1) On all taxable income from zero through eight
26 22 thousand dollars, two and five hundredths percent.

26 23 (2) On all taxable income exceeding eight thousand
26 24 dollars but not exceeding one hundred thousand
26 25 dollars, four and sixty-five hundredths percent.

26 26 (3) On all taxable income exceeding one hundred
26 27 thousand dollars, four and nine-tenths percent.

26 28 b. (1) The tax imposed upon the taxable income of
26 29 a nonresident shall be computed by reducing the amount
26 30 determined pursuant to paragraph "a" by the amounts of
26 31 nonrefundable credits under this division and by
26 32 multiplying this resulting amount by a fraction of
26 33 which the nonresident's net income allocated to Iowa,
26 34 as determined in section 422.8, subsection 2,
26 35 paragraph "a", is the numerator and the nonresident's
26 36 total net income computed under section 422.7 is the
26 37 denominator. This provision also applies to
26 38 individuals who are residents of Iowa for less than
26 39 the entire tax year.

26 40 (2) The tax imposed upon the taxable income of a

26 41 resident shareholder in an S corporation which has in
26 42 effect for the tax year an election under subchapter S
26 43 of the Internal Revenue Code and carries on business
26 44 within and without the state may be computed by
26 45 reducing the amount determined pursuant to paragraph
26 46 "a" by the amounts of nonrefundable credits under this
26 47 division and by multiplying this resulting amount by a
26 48 fraction of which the resident's net income allocated
26 49 to Iowa, as determined in section 422.8, subsection 2,
26 50 paragraph "b", is the numerator and the resident's
27 1 total net income computed under section 422.7 is the
27 2 denominator. If a resident shareholder has elected to
27 3 take advantage of this subparagraph, and for the next
27 4 tax year elects not to take advantage of this
27 5 subparagraph, the resident shareholder shall not
27 6 reelect to take advantage of this subparagraph for the
27 7 three tax years immediately following the first tax
27 8 year for which the shareholder elected not to take
27 9 advantage of this subparagraph, unless the director
27 10 consents to the reelection. This subparagraph also
27 11 applies to individuals who are residents of Iowa for
27 12 less than the entire tax year.

27 13 Sec. 52. Section 422.5, subsection 2, Code 2003,
27 14 is amended by striking the subsection and inserting in
27 15 lieu thereof the following:

27 16 2. a. However, if the married persons' filing
27 17 jointly or separately on a combined return, unmarried
27 18 head of household's, or surviving spouse's net income
27 19 exceeds thirteen thousand five hundred dollars or nine
27 20 thousand dollars in the case of all other persons, the
27 21 regular tax imposed under this division shall be the
27 22 lesser of the product of eight percent times the
27 23 portion of the net income in excess of thirteen
27 24 thousand five hundred dollars or nine thousand
27 25 dollars, as applicable, or the regular tax liability
27 26 computed without regard to this paragraph.

27 27 b. Paragraph "a" does not apply to estates and
27 28 trusts. Married taxpayers electing to file separately
27 29 shall compute the alternate tax described in paragraph
27 30 "a" using the total net income of the husband and
27 31 wife. The alternate tax described in paragraph "a"
27 32 does not apply if one spouse elects to carry back or
27 33 carry forward the loss as provided in section 422.9,
27 34 subsection 3. A person who is claimed as a dependent
27 35 by another person as defined in section 422.12 shall
27 36 not receive the benefit of paragraph "a" if the person
27 37 claiming the dependent has net income exceeding
27 38 thirteen thousand five hundred dollars or nine
27 39 thousand dollars as applicable or the person claiming
27 40 the dependent and the person's spouse have combined
27 41 net income exceeding thirteen thousand five hundred
27 42 dollars or nine thousand dollars as applicable.

27 43 Sec. 53. Section 422.5, subsection 5, Code 2003,
27 44 is amended to read as follows:

27 45 5. Upon determination of the latest cumulative
27 46 inflation factor, the director shall multiply each
27 47 dollar amount set forth in subsection 1, ~~paragraphs~~
~~27 48 "a" through "i" of this section paragraph "a",~~ by this
27 49 cumulative inflation factor, shall round off the
27 50 resulting product to the nearest one dollar, and shall
28 1 incorporate the result into the income tax forms and
28 2 instructions for each tax year.

28 3 Sec. 54. Section 422.5, subsection 7, Code 2003,
28 4 is amended by striking the subsection.

28 5 Sec. 55. Section 422.7, Code 2003, as amended by
28 6 2003 Iowa Acts, Senate File 442, section 5, and House
28 7 File 674, sections 5 and 6, is amended by striking the
28 8 section and inserting in lieu thereof the following:

28 9 422.7 "NET INCOME" == HOW COMPUTED.

28 10 The term "net income" means the adjusted gross
28 11 income before the net operating loss deduction as
28 12 properly computed for federal income tax purposes
28 13 under the Internal Revenue Code, with the following
28 14 adjustments:

28 15 1. The adjusted gross income is adjusted by adding
28 16 the sum of the following:

28 17 a. Add the amount of federal income tax refunds
28 18 received in a tax year beginning on or after January
28 19 1, 2007, but before January 1, 2010, to the extent
28 20 that the federal income tax was deducted on an Iowa
28 21 individual income tax return for a tax year beginning

28 22 prior to January 1, 2007.

28 23 b. Add interest and dividends from foreign
28 24 securities and from securities of state and other
28 25 political subdivisions exempt from federal income tax
28 26 under the Internal Revenue Code.

28 27 c. Add interest and dividends from regulated
28 28 investment companies exempt from federal income tax
28 29 under the Internal Revenue Code.

28 30 d. Add, to the extent not already included, income
28 31 from the sale of obligations of the state and its
28 32 political subdivisions. Income from the sale of these
28 33 obligations is exempt from the taxes imposed by this
28 34 division only if the law authorizing these obligations
28 35 specifically exempts the income from the sale from the
28 36 state individual income tax.

28 37 e. Add the amount resulting from the cancellation
28 38 of a participation agreement refunded to the taxpayer
28 39 as a participant in the Iowa educational savings plan
28 40 trust under chapter 12D to the extent previously
28 41 deducted as a contribution to the trust.

28 42 2. The adjusted gross income is adjusted by
28 43 subtracting the sum of the following:

28 44 a. Subtract the amount of federal income taxes
28 45 paid or accrued, as the case may be, in a tax year
28 46 beginning on or after January 1, 2007, but before
28 47 January 1, 2010, to the extent the federal tax payment
28 48 is for a tax year beginning prior to January 1, 2007.

28 49 b. Subtract interest and dividends from federal
28 50 securities.

29 1 c. Subtract the loss on the sale or exchange of a
29 2 share of a regulated investment company held for six
29 3 months or less to the extent the loss was disallowed
29 4 under section 852(b)(4)(B) of the Internal Revenue
29 5 Code.

29 6 d. (1) Subtract, to the extent included, the
29 7 amount of additional social security benefits taxable
29 8 under the Internal Revenue Code for tax years
29 9 beginning on or after January 1, 1994. The amount of
29 10 social security benefits taxable as provided in
29 11 section 86 of the Internal Revenue Code, as amended up
29 12 to and including January 1, 1993, continues to apply
29 13 for state income tax purposes for tax years beginning
29 14 on or after January 1, 1994.

29 15 (2) Married taxpayers, who file a joint federal
29 16 income tax return and who elect to file separate
29 17 returns or who elect separate filing on a combined
29 18 return for state income tax purposes, shall allocate
29 19 between the spouses the amount of benefits subtracted
29 20 under subparagraph (1) from net income in the ratio of
29 21 the social security benefits received by each spouse
29 22 to the total of these benefits received by both
29 23 spouses.

29 24 e. (1) For a person who is disabled, or is fifty=
29 25 five years of age or older, or is the surviving spouse
29 26 of an individual or a survivor having an insurable
29 27 interest in an individual who would have qualified for
29 28 the exemption under this paragraph for the tax year,
29 29 subtract, to the extent included, the total amount of
29 30 a governmental or other pension or retirement pay,
29 31 including, but not limited to, defined benefit or
29 32 defined contribution plans, annuities, individual
29 33 retirement accounts, plans maintained or contributed
29 34 to by an employer, or maintained or contributed to by
29 35 a self-employed person as an employer, and deferred
29 36 compensation plans or any earnings attributable to the
29 37 deferred compensation plans, up to a maximum of six
29 38 thousand dollars for a person, other than a husband or
29 39 wife, who files a separate state income tax return and
29 40 up to a maximum of twelve thousand dollars for a
29 41 husband and wife who file a joint state income tax
29 42 return.

29 43 (2) However, a surviving spouse who is not
29 44 disabled or fifty-five years of age or older can only
29 45 exclude the amount of pension or retirement pay
29 46 received as a result of the death of the other spouse.
29 47 A husband and wife filing separate state income tax
29 48 returns or separately on a combined return are allowed
29 49 a combined maximum exclusion under this paragraph "e"
29 50 of up to the amount allowed for a husband and wife who
30 1 file a joint state income tax return. The exclusion
30 2 shall be allocated to the husband or wife in the

30 3 proportion that each spouse's respective pension and
30 4 retirement pay received bears to total combined
30 5 pension and retirement pay received.
30 6 f. Notwithstanding the method for computing income
30 7 from an installment sale under section 453 of the
30 8 Internal Revenue Code, as defined in section 422.3,
30 9 the method to be used in computing income from an
30 10 installment sale shall be the method under section 453
30 11 of the Internal Revenue Code, as amended up to and
30 12 including January 1, 2000. A taxpayer affected by
30 13 this paragraph shall make adjustments in the adjusted
30 14 gross income pursuant to rules adopted by the
30 15 director.

30 16 The adjustment to net income provided in this
30 17 paragraph "f" is repealed for tax years beginning on
30 18 or after January 1, 2002. However, to the extent that
30 19 a taxpayer using the accrual method of accounting
30 20 reported the entire capital gain from the sale or
30 21 exchange of property on the Iowa return for the tax
30 22 year beginning in the 2001 calendar year and the
30 23 capital gain was reported on the installment method on
30 24 the federal income tax return, any additional
30 25 installment from the capital gain reported for federal
30 26 income tax purposes is not to be included in net
30 27 income in tax years beginning on or after January 1,
30 28 2002.

30 29 g. Subtract, if the taxpayer is the owner of an
30 30 individual development account certified under chapter
30 31 541A at any time during the tax year, all of the
30 32 following:

30 33 (1) Contributions made to the account by persons
30 34 and entities, other than the taxpayer, as authorized
30 35 in chapter 541A.

30 36 (2) The amount of any savings refund authorized
30 37 under section 541A.3, subsection 1.

30 38 (3) Earnings from the account.

30 39 h. (1) Subtract the maximum contribution that may
30 40 be deducted for income tax purposes as a participant
30 41 in the Iowa educational savings plan trust pursuant to
30 42 section 12D.3, subsection 1, paragraph "a".

30 43 (2) Subtract, to the extent included, income from
30 44 interest and earnings received from the Iowa
30 45 educational savings plan trust created in chapter 12D.

30 46 (3) Subtract, to the extent not deducted for
30 47 federal income tax purposes, the amount of any gift,
30 48 grant, or donation made to the Iowa educational
30 49 savings plan trust for deposit in the endowment fund
30 50 of that trust.

31 1 i. Subtract, to the extent included, active duty
31 2 pay received by a person in the national guard or
31 3 armed forces military reserve for services performed
31 4 on or after August 2, 1990, pursuant to military
31 5 orders related to the Persian Gulf Conflict.

31 6 j. Subtract, to the extent included, active duty
31 7 pay received by a person in the national guard or
31 8 armed forces military reserve for service performed on
31 9 or after November 21, 1995, pursuant to military
31 10 orders related to peacekeeping in Bosnia=Herzegovina.

31 11 k. Subtract, to the extent included, the
31 12 following:

31 13 (1) Payments made to the taxpayer because of the
31 14 taxpayer's status as a victim of persecution for
31 15 racial, ethnic, or religious reasons by Nazi Germany
31 16 or any other Axis regime or as an heir of such victim.

31 17 (2) Items of income attributable to, derived from,
31 18 or in any way related to assets stolen from, hidden
31 19 from, or otherwise lost to a victim of persecution for
31 20 racial, ethnic, or religious reasons by Nazi Germany
31 21 or any other Axis regime immediately prior to, during,
31 22 and immediately after World War II, including, but not
31 23 limited to, interest on the proceeds receivable as
31 24 insurance under policies issued to a victim of
31 25 persecution for racial, ethnic, or religious reasons
31 26 by Nazi Germany or any other Axis regime by European
31 27 insurance companies immediately prior to and during
31 28 World War II. However, income from assets acquired
31 29 with such assets or with the proceeds from the sale of
31 30 such assets shall not be subtracted. This

31 31 subparagraph shall only apply to a taxpayer who was
31 32 the first recipient of such assets after recovery of
31 33 the assets and who is a victim of persecution for

31 34 racial, ethnic, or religious reasons by Nazi Germany
31 35 or any other Axis regime or is an heir of such victim.
31 36 1. Subtract, to the extent included, active duty
31 37 pay received by a person in the national guard or
31 38 armed forces military reserve for service performed on
31 39 or after January 1, 2003, pursuant to military orders
31 40 related to Operation Iraqi Freedom, Operation Noble
31 41 Eagle, and Operation Enduring Freedom.
31 42 m. Subtract, not to exceed one thousand five
31 43 hundred dollars, the overnight transportation, meals,
31 44 and lodging expenses, to the extent not reimbursed,
31 45 incurred by the taxpayer for travel away from home of
31 46 more than one hundred miles for the performance of
31 47 services by the taxpayer as a member of the national
31 48 guard or armed forces military reserve.
31 49 n. Subtract, to the extent included, military
31 50 student loan repayments received by the taxpayer
32 1 serving on active duty in the national guard or armed
32 2 forces military reserve or on active duty status in
32 3 the armed forces.
32 4 o. Subtract, to the extent not otherwise excluded,
32 5 the amount of the death gratuity payable under 10
32 6 U.S.C. } 1475=1491 for deaths occurring after
32 7 September 10, 2001.
32 8 3. a. In determining the amount of federal income
32 9 tax refunds or taxes paid or accrued under subsection
32 10 1 or 2, for tax years beginning in the 2001 calendar
32 11 year, the amount shall not be adjusted by the amount
32 12 received during the tax year of the advanced refund of
32 13 the rate reduction tax credit provided pursuant to the
32 14 federal Economic Growth and Tax Relief Reconciliation
32 15 Act of 2001, Pub. L. No. 107=16, and the advanced
32 16 refund of such credit shall not be subject to taxation
32 17 under this division.
32 18 b. In determining the amount of federal income tax
32 19 refunds or taxes paid or accrued under subsection 1 or
32 20 2, for tax years beginning in the 2002 calendar year,
32 21 the amount shall not be adjusted by the amount of the
32 22 rate reduction credit received during the tax year to
32 23 the extent that the credit is attributable to the rate
32 24 reduction credit provided pursuant to the federal
32 25 Economic Growth and Tax Relief Reconciliation Act of
32 26 2001, Pub. L. No. 107=16, and the amount of such
32 27 credit shall not be taxable under this division.
32 28 4. The additional first-year depreciation allowance
32 29 authorized in section 168(k) of the Internal Revenue
32 30 Code, as enacted by Pub. L. No. 107=147, section 101,
32 31 does not apply in computing net income for state tax
32 32 purposes. If the taxpayer has taken such deduction in
32 33 computing federal adjusted gross income, the following
32 34 adjustments shall be made:
32 35 a. Add the total amount of depreciation taken on
32 36 all property for which the election under section
32 37 168(k) of the Internal Revenue Code was made for the
32 38 tax year.
32 39 b. Subtract an amount equal to depreciation taken
32 40 on such property for the tax year using the modified
32 41 accelerated cost recovery system depreciation method
32 42 applicable under section 168 of the Internal Revenue
32 43 Code without regard to section 168(k).
32 44 c. Any other adjustments to gains or losses to
32 45 reflect the adjustments made in paragraphs "a" and "b"
32 46 pursuant to rules adopted by the director.
32 47 Sec. 56. Section 422.8, subsection 2, paragraph a,
32 48 Code 2003, is amended to read as follows:
32 49 a. Nonresident's net income allocated to Iowa is
32 50 the net income, or portion of net income, which is
33 1 derived from a business, trade, profession, or
33 2 occupation carried on within this state or income from
33 3 any property, trust, estate, or other source within
33 4 Iowa. However, income derived from a business, trade,
33 5 profession, or occupation carried on within this state
33 6 and income from any property, trust, estate, or other
33 7 source within Iowa shall not include distributions
33 8 from pensions, including defined benefit or defined
33 9 contribution plans, annuities, individual retirement
33 10 accounts, and deferred compensation plans or any
33 11 earnings attributable thereto so long as the
33 12 distribution is directly related to an individual's
33 13 documented retirement and received while the
33 14 individual is a nonresident of this state. If a

33 15 business, trade, profession, or occupation is carried
33 16 on partly within and partly without the state, only
33 17 the portion of the net income which is fairly and
33 18 equitably attributable to that part of the business,
33 19 trade, profession, or occupation carried on within the
33 20 state is allocated to Iowa for purposes of section
33 21 422.5, subsection 1, paragraph "j" "b", and section
33 22 422.13 and income from any property, trust, estate, or
33 23 other source partly within and partly without the
33 24 state is allocated to Iowa in the same manner, except
33 25 that annuities, interest on bank deposits and
33 26 interest-bearing obligations, and dividends are
33 27 allocated to Iowa only to the extent to which they are
33 28 derived from a business, trade, profession, or
33 29 occupation carried on within the state.

33 30 Sec. 57. Section 422.8, subsection 4, Code 2003,
33 31 is amended by striking the subsection.

33 32 Sec. 58. Section 422.9, subsection 1, Code 2003,
33 33 is amended to read as follows:

~~33 34 1. An optional standard deduction, after deduction
33 35 of federal income tax, equal to one thousand two
33 36 hundred thirty dollars for a married person who files
33 37 separately or a single person or equal to three
33 38 thousand thirty dollars for a husband and wife who
33 39 file a joint return, a surviving spouse, or an
33 40 unmarried head of household. The optional standard
33 41 deduction shall not exceed the amount remaining after
33 42 deduction of the federal income tax.~~

33 43 Sec. 59. Section 422.9, subsection 2, paragraph b,
33 44 Code 2003, is amended by striking the paragraph.

33 45 Sec. 60. Section 422.9, subsections 6 and 7, Code
33 46 2003, are amended by striking the subsections.

33 47 Sec. 61. Section 422.11B, subsection 1, Code 2003,
33 48 is amended to read as follows:

33 49 1. There is allowed as a credit against the tax
33 50 determined in section 422.5, subsection 1, paragraphs
34 1 "a" through "j" for a tax year an amount equal to the
34 2 minimum tax credit for that tax year.

34 3 The minimum tax credit for a tax year is the
34 4 excess, if any, of the adjusted net minimum tax
34 5 imposed for all prior tax years beginning on or after
34 6 January 1, 1987, but before January 1, 2007, over the
34 7 amount allowable as a credit under this section for
34 8 those prior tax years.

34 9 If a minimum tax credit is available to a tax
34 10 period beginning on or after January 1, 2007, the
34 11 credit can be carried over to tax years beginning on
34 12 or after January 1, 2007, but before January 1, 2010.
34 13 The minimum tax credit is limited to the tax
34 14 determined in section 422.5, subsection 1, paragraphs
34 15 "a" and "b".

34 16 Sec. 62. Section 422.13, subsection 1, paragraph
34 17 c, and subsection 1A, Code 2003, are amended to read
34 18 as follows:

34 19 c. However, if that part of the net income of a
34 20 nonresident which is allocated to Iowa pursuant to
34 21 section 422.8, subsection 2, is less than one thousand
34 22 dollars the nonresident is not required to make and
34 23 sign a return ~~except when the nonresident is subject
34 24 to the state alternative minimum tax imposed pursuant
34 25 to section 422.5, subsection 1, paragraph "k".~~

34 26 1A. Notwithstanding any other provision in this
34 27 section, a resident of this state is not required to
34 28 make and file a return if the person's net income is
34 29 equal to or less than the appropriate dollar amount
34 30 listed in section 422.5, subsection 2, upon which tax
34 31 is not imposed. A nonresident of this state is not
34 32 required to make and file a return if the person's
34 33 total net income in section 422.5, subsection 1,
34 34 paragraph "j", "b", is equal to or less than the
34 35 appropriate dollar amount provided in section 422.5,
34 36 subsection 2, upon which tax is not imposed. For
34 37 purposes of this subsection, the amount of a lump sum
34 38 distribution subject to separate federal tax shall be
34 39 included in net income for purposes of determining if
34 40 a resident is required to file a return and the
34 41 portion of the lump sum distribution that is allocable
34 42 to Iowa is included in total net income for purposes
34 43 of determining if a nonresident is required to make
34 44 and file a return.

34 45 Sec. 63. Section 422.21, unnumbered paragraph 5,

34 46 Code 2003, is amended to read as follows:

34 47 The director shall determine for the ~~1989~~ 2008 and
34 48 each subsequent calendar year the annual and
34 49 cumulative inflation factors for each calendar year to
34 50 be applied to tax years beginning on or after January
35 1 1 of that calendar year. The director shall compute
35 2 the new dollar amounts as specified to be adjusted in
35 3 section 422.5 by the latest cumulative inflation
35 4 factor and round off the result to the nearest one
35 5 dollar. The annual and cumulative inflation factors
35 6 determined by the director are not rules as defined in
35 7 section 17A.2, subsection 11. The director shall
35 8 determine for the ~~1990~~ 2008 calendar year and each
35 9 subsequent calendar year the annual and cumulative
35 10 standard deduction factors to be applied to tax years
35 11 beginning on or after January 1 of that calendar year.
35 12 The director shall compute the new dollar amounts of
35 13 the standard deductions specified in section 422.9,
35 14 subsection 1, by the latest cumulative standard
35 15 deduction factor and round off the result to the
35 16 nearest ten dollars. The annual and cumulative
35 17 standard deduction factors determined by the director
35 18 are not rules as defined in section 17A.2, subsection
35 19 11.

35 20 Sec. 64. Section 422.11B, Code 2003, is repealed.

35 21 COORDINATING AMENDMENTS

35 22 Sec. 65. Section 12D.9, subsection 2, Code 2003,
35 23 is amended to read as follows:

35 24 2. State income tax treatment of the Iowa
35 25 educational savings plan trust shall be as provided in
35 26 section 422.7, ~~subsections 32, 33, and 34~~ subsection
35 27 1, paragraph "e", and subsection 2, paragraph "h", and
35 28 section 422.35, subsection 14.

35 29 Sec. 66. Section 217.39, Code 2003, is amended to
35 30 read as follows:

35 31 217.39 PERSECUTED VICTIMS OF WORLD WAR II ==
35 32 REPARATIONS == HEIRS.

35 33 Notwithstanding any other law of this state,
35 34 payments paid to and income from lost property of a
35 35 victim of persecution for racial, ethnic, or religious
35 36 reasons by Nazi Germany or any other Axis regime or as
35 37 an heir of such victim which is exempt from state
35 38 income tax as provided in section 422.7, subsection ~~35~~
35 39 2, paragraph "k", shall not be considered as income or
35 40 an asset for determining the eligibility for state or
35 41 local government benefit or entitlement programs. The
35 42 proceeds are not subject to recoupment for the receipt
35 43 of governmental benefits or entitlements, and liens,
35 44 except liens for child support, are not enforceable
35 45 against these sums for any reason.

35 46 Sec. 67. Section 422.120, subsection 1, paragraph
35 47 b, subparagraph (3), Code 2003, is amended to read as
35 48 follows:

35 49 (3) The annual index factor for the 1997 calendar
35 50 year is one hundred percent. ~~For each subsequent the~~
36 1 ~~1998 through 2006 calendar year years,~~ the annual
36 2 index factor equals the annual inflation factor for
36 3 that calendar year as computed in section 422.4 for
36 4 purposes of the individual income tax. ~~For the 2007~~
36 5 ~~calendar year and each subsequent calendar year the~~
36 6 ~~annual index factor shall be determined by the~~
36 7 ~~department by October 15 of the calendar year~~
36 8 ~~preceding the calendar year for which the factor is~~
36 9 ~~determined, which reflects the purchasing power of the~~
36 10 ~~dollar as a result of inflation during the fiscal year~~
36 11 ~~ending in the calendar year preceding the calendar~~
36 12 ~~year for which the factor is determined. In~~
36 13 ~~determining the annual index factor, the department~~
36 14 ~~shall use the annual percent change, but not less than~~
36 15 ~~zero percent, in the gross domestic product price~~
36 16 ~~deflator computed for the second quarter of the~~
36 17 ~~calendar year by the bureau of economic analysis of~~
36 18 ~~the United States department of commerce and shall add~~
36 19 ~~all of that percent change to one hundred percent.~~
36 20 ~~The annual index factor and the cumulative index~~
36 21 ~~factor shall each be expressed as a percentage rounded~~
36 22 ~~to the nearest one-tenth of one percent. The annual~~
36 23 ~~index factor shall not be less than one hundred~~
36 24 ~~percent.~~

36 25 Sec. 68. Section 425.23, subsection 4, paragraph
36 26 b, Code 2003, is amended to read as follows:

36 27 b. The annual adjustment factor for the 1998 base
36 28 year is one hundred percent. For ~~each subsequent the~~
36 29 ~~1999 through 2006 base year years~~, the annual
36 30 adjustment factor equals the annual inflation factor
36 31 for the calendar year, in which the base year begins,
36 32 as computed in section 422.4 for purposes of the
36 33 individual income tax. For the 2007 base year and
36 34 each subsequent base year, the annual adjustment
36 35 factor equals the annual index factor, in which the
36 36 base year begins, as computed in section 422.120,
36 37 subsection 1, for purposes of the livestock production
36 38 tax credit.

36 39 Sec. 69. Section 450.4, subsection 8, Code 2003,
36 40 is amended to read as follows:
36 41 8. On the value of that portion of any lump sum or
36 42 installment payments which are received by a
36 43 beneficiary under an annuity which was purchased under
36 44 an employee's pension or retirement plan which was
36 45 excluded from net income ~~as set forth in under~~ section
36 46 ~~422.7, subsection 3i.~~

36 47 Sec. 70. Section 541A.2, subsection 7, unnumbered
36 48 paragraph 1, Code 2003, is amended to read as follows:
36 49 An individual development account closed in
36 50 accordance with this subsection is not subject to the
37 1 limitations and benefits provided by this chapter but
37 2 is subject to state tax in accordance with the
37 3 provisions of section 422.7, subsection ~~2~~ 2.

37 4 paragraph "g", and section 450.4, subsection 6. An
37 5 individual development account may be closed for any
37 6 of the following reasons:
37 7 Sec. 71. Section 541A.3, subsection 2, Code 2003,
37 8 is amended to read as follows:
37 9 2. Income earned by an individual development
37 10 account is not subject to state tax, in accordance
37 11 with the provisions of section 422.7, subsection ~~2~~ 2.

37 12 paragraph "g".
37 13 Sec. 72. Division III of this Act is repealed.
37 14 CONTINGENT EFFECTIVE AND APPLICABILITY DATE PROVISION
37 15 Sec. 73.

37 16 1. This division of this Act takes effect upon
37 17 ratification prior to January 1, 2007, of an amendment
37 18 to the Constitution of the State of Iowa requiring a
37 19 three-fifths majority vote of each house of the
37 20 general assembly in order to pass a bill that amends
37 21 the state individual income tax by raising the rate or
37 22 rates of the individual income tax or of an amendment
37 23 to the Constitution of the State of Iowa requiring a
37 24 statewide referendum in order to approve a bill that
37 25 amends the state individual income tax by raising the
37 26 rate or rates of the individual income tax.

37 27 2. If this division of this Act takes effect as
37 28 provided in subsection 1, this division of this Act,
37 29 except as provided in subsection 3, applies to tax
37 30 years beginning on or after January 1, 2007.

37 31 3. The section of this division of this Act
37 32 repealing section 422.11B applies to tax years
37 33 beginning on or after January 1, 2010.

37 34 DIVISION V
37 35 SALES AND USE TAX STUDIES

37 36 Sec. 74. INDUSTRIAL PROCESSING EXEMPTION STUDY
37 37 COMMITTEE. On or before July 1, 2003, the department
37 38 of revenue and finance shall initiate and coordinate
37 39 the establishment of an industrial processing
37 40 exemption study committee and provide staffing
37 41 assistance to the committee. It is the intent of the
37 42 general assembly that the committee shall include
37 43 representatives of the department of revenue and
37 44 finance, department of management, industrial
37 45 producers including manufacturers, fabricators,
37 46 printers and publishers, and an association that
37 47 specifically represents business tax issues, and other
37 48 stakeholders.

37 49 The industrial processing exemption under the sales
37 50 and use tax is a significant exemption for business.

38 1 The committee shall study and make legislative and
38 2 administrative recommendations relating to Iowa's
38 3 processing exemption to ensure maximum utilization by
38 4 Iowa's industries.

38 5 The committee shall study and make recommendations
38 6 regarding all of the following:

38 7 1. The current sales and use tax industrial

38 8 processing exemption.
38 9 2. The corresponding administrative rules,
38 10 including a review and recommendation of an
38 11 administrative rules process relating to the
38 12 industrial processing exemption prior to filing with
38 13 the administrative rules review committee.
38 14 3. Other states' industrial processing exemptions.
38 15 4. Recommendations for change for issues including
38 16 effectiveness and competitiveness.
38 17 5. Development of additional publications to
38 18 improve compliance.
38 19 The committee shall annually report to the general
38 20 assembly by January 1 of each year through January 1,
38 21 2013.
38 22 Sec. 75. IOWA SALES, SERVICES, AND USE TAX STUDY
38 23 COMMITTEE. On or before July 1, 2003, the department
38 24 of revenue and finance shall initiate and coordinate
38 25 the establishment of a state sales, services, and use
38 26 tax study committee and provide staffing assistance to
38 27 the committee. It is the intent of the general
38 28 assembly that the committee shall include
38 29 representatives of the department of revenue and
38 30 finance, department of management, an association of
38 31 Iowa farmers and other agricultural interests, retail
38 32 associations, contractors, taxpayers, an association
38 33 that specifically represents business tax issues, and
38 34 other stakeholders, two members of the general
38 35 assembly, and a representative of the governor's
38 36 office.
38 37 The committee shall study the current sales,
38 38 services, and use tax law. Programs funded through
38 39 special features of the tax code often escape regular
38 40 review. It is intended that the study committee shall
38 41 review the current sales, services, and use tax
38 42 exemptions to improve government accountability.
38 43 The committee shall study and make recommendations
38 44 regarding all of the following:
38 45 1. Retaining or eliminating current sales,
38 46 services, and use tax exemptions or providing new
38 47 exemptions. Such decisions shall be based at least
38 48 partially on the issues of effectiveness and
38 49 competitiveness and their impact on economic behavior.
38 50 2. Tax simplification and consistency issues in
39 1 applying the tax, including recordkeeping burdens on
39 2 retailers and application by the department of revenue
39 3 and finance.
39 4 3. Streamline sales tax implementation in Iowa.
39 5 4. The tax rate.
39 6 5. Comparison of Iowa sales, services, and use tax
39 7 structure with other states.
39 8 The committee shall report to the general assembly
39 9 by January 1, 2004. The report shall provide
39 10 rationale for each decision made by the study
39 11 committee.
39 12 Sec. 76. EFFECTIVE DATE. This division of this
39 13 Act, being deemed of immediate importance, takes
39 14 effect July 1, 2003.

39 15 DIVISION VI
39 16 GROW IOWA BOARD AND FUND
39 17 Sec. 77. Section 15.108, subsection 9, Code 2003,
39 18 is amended by adding the following new paragraph:
39 19 NEW PARAGRAPH. g. Administer the marketing
39 20 strategy selected pursuant to section 15G.108.
39 21 Sec. 78. NEW SECTION. 15G.101 DEFINITIONS.
39 22 As used in this chapter, unless the context
39 23 otherwise requires:
39 24 1. "Board" means the grow Iowa board established
39 25 in section 15G.102.
39 26 2. "Department" means the Iowa department of
39 27 economic development created in section 15.105.
39 28 3. "Director" means the director of the department
39 29 of economic development.
39 30 4. "Fund" means the grow Iowa fund created in
39 31 section 15G.107.
39 32 5. "Grow Iowa geographic regions" means the
39 33 geographic regions defined in section 15G.105.
39 34 Sec. 79. NEW SECTION. 15G.102 GROW IOWA BOARD.
39 35 1. The grow Iowa board is established consisting
39 36 of nine voting members. The grow Iowa board shall be
39 37 located for administrative purposes within the
39 38 department and the director shall provide office

39 39 space, staff assistance, and necessary supplies and
39 40 equipment for the board. The director shall budget
39 41 moneys to pay the compensation and expenses of the
39 42 board. In performing its functions, the board is
39 43 performing a public function on behalf of the state
39 44 and is a public instrumentality of the state.

39 45 2. a. The members of the board shall be appointed
39 46 as follows:

39 47 (1) Five individuals appointed by the governor,
39 48 subject to confirmation by the senate.

39 49 (2) Four individuals appointed by the legislative
39 50 council.

40 1 b. All appointments shall comply with sections
40 2 69.16 and 69.16A.

40 3 c. At least one member of the board shall be from
40 4 each grow Iowa geographic region.

40 5 d. Each of the following areas of expertise shall
40 6 be represented by at least one member of the board who
40 7 has professional experience in that area of expertise:

40 8 (1) Accounting and finance.

40 9 (2) Business development for employers with less
40 10 than two hundred employees and sales of less than ten
40 11 million dollars per year.

40 12 (3) Insurance.

40 13 (4) Economics.

40 14 (5) Personnel.

40 15 e. All members of the board shall be actively
40 16 employed in the private, for-profit sector of the
40 17 economy.

40 18 f. The board membership shall be balanced between
40 19 representation by employers with less than two hundred
40 20 employees and employers with two hundred or more
40 21 employees.

40 22 3. The chairperson and vice chairperson shall be
40 23 elected by the members of the board from the
40 24 membership of the board. In the case of the absence
40 25 or disability of the chairperson and vice chairperson,
40 26 the members of the board shall elect a temporary
40 27 chairperson by a majority vote of those members who
40 28 are present and voting, provided a quorum is present.

40 29 4. The members of the board shall be appointed to
40 30 three-year staggered terms and the terms shall
40 31 commence and end as provided in section 69.19. If a
40 32 vacancy occurs, a successor shall be appointed in the
40 33 same manner and subject to the same qualifications as
40 34 the original appointment to serve the unexpired term.

40 35 5. A majority of the board constitutes a quorum.

40 36 6. A member of the board shall abstain from voting
40 37 on the provision of financial assistance to a project
40 38 which is located in the county in which the member of
40 39 the board resides.

40 40 7. The members of the board are entitled to
40 41 receive reimbursement for actual expenses incurred
40 42 while engaged in the performance of official duties.

40 43 A board member may also be eligible to receive

40 44 compensation as provided in section 7E.6.

40 45 Sec. 80. NEW SECTION. 15G.103 BOARD DUTIES.

40 46 The board shall do all of the following:

40 47 1. Organize.

40 48 2. Receive advice and recommendations from the
40 49 grow Iowa investment board, the economic development
40 50 marketing board, and the grow Iowa review commission.

41 1 3. Provide advice and recommendations to the
41 2 department and the Iowa economic development board for
41 3 making appropriations from and administering the grow
41 4 Iowa fund. A recommendation made by the grow Iowa
41 5 board to the department or the Iowa economic
41 6 development board shall be either approved or denied
41 7 by the department or the Iowa economic development
41 8 board.

41 9 4. Assist the department in implementing programs
41 10 and activities in a manner designed to achieve the
41 11 goals set out in section 15G.106.

41 12 5. By December 15 of each year, submit a written
41 13 report to the general assembly reviewing the
41 14 activities of the board during the calendar year. The
41 15 report shall include information necessary for the
41 16 review of the goals and performance measures set out
41 17 in section 15G.106. State agencies and other entities
41 18 receiving moneys from the fund shall cooperate with
41 19 and assist the board in compilation of the report.

41 20 6. Adopt administrative rules pursuant to chapter
41 21 17A necessary to administer this chapter.

41 22 Sec. 81. NEW SECTION. 15G.104 GROW IOWA
41 23 INVESTMENT BOARD.

41 24 1. A grow Iowa investment board is established
41 25 consisting of three members and is located for
41 26 administrative purposes within the department. The
41 27 director of the department shall provide office space,
41 28 staff assistance, and necessary supplies and equipment
41 29 for the board. The director shall budget moneys to
41 30 pay the compensation and expenses of the board. In
41 31 performing its functions, the board is performing a
41 32 public function on behalf of the state and is a public
41 33 instrumentality of the state.

41 34 2. a. Membership of the grow Iowa investment
41 35 board shall include all of the following:

41 36 (1) One member appointed by the governor from a
41 37 list of three banking representatives provided by the
41 38 superintendent of banking. This member shall serve a
41 39 three-year term.

41 40 (2) One member appointed by the governor from a
41 41 list of entrepreneurs provided jointly by the Iowa
41 42 association of business and industry and the national
41 43 federation of independent business. This member shall
41 44 serve a three-year term.

41 45 (3) The entrepreneur of the year as selected by
41 46 the Iowa small business development centers shall be
41 47 offered a one-year membership on the investment board.
41 48 If the entrepreneur of the year declines to serve on
41 49 the investment board, a member shall be appointed by
41 50 the governor from the list provided pursuant to

42 1 subparagraph (2) for the one-year term.

42 2 b. The chairperson and vice chairperson of the
42 3 grow Iowa investment board shall be elected by and
42 4 from the investment board members. The terms of the
42 5 members shall commence and end as provided by section
42 6 69.19. If a vacancy occurs, a successor shall be
42 7 appointed in the same manner and subject to the same
42 8 qualifications as the original appointment to serve
42 9 the unexpired term. A majority of the investment
42 10 board constitutes a quorum.

42 11 3. The grow Iowa investment board shall provide
42 12 recommendations to the grow Iowa board regarding any
42 13 moneys proposed to be expended from the grow Iowa
42 14 fund, with the exception of moneys appropriated for
42 15 purposes of the loan and credit guarantee program.
42 16 The recommendations shall be based on whether the
42 17 expenditure would make the achievement of the goals in
42 18 accordance with the performance measures set out in
42 19 section 15G.106 more likely. The grow Iowa board
42 20 shall consider the recommendations of the grow Iowa
42 21 investment board and shall make an independent
42 22 recommendation to the department and the Iowa economic
42 23 development board regarding the expenditure. The
42 24 recommendations of the grow Iowa board shall include
42 25 the recommendations made by the grow Iowa investment
42 26 board.

42 27 4. The members of the board are entitled to
42 28 receive reimbursement for actual expenses incurred
42 29 while engaged in the performance of official duties.
42 30 A board member may also be eligible to receive
42 31 compensation as provided in section 7E.6.

42 32 Sec. 82. NEW SECTION. 15G.104A GROW IOWA REVIEW
42 33 COMMISSION.

42 34 1. A grow Iowa review commission is established
42 35 consisting of three members and is located for
42 36 administrative purposes within the department. The
42 37 director of the department shall provide office space,
42 38 staff assistance, and necessary supplies and equipment
42 39 for the review commission. The director shall budget
42 40 moneys to pay the compensation and expenses of the
42 41 commission. In performing its functions, the review
42 42 commission is performing a public function on behalf
42 43 of the state and is a public instrumentality of the
42 44 state.

42 45 2. Membership of the review commission shall
42 46 include the auditor of state, an economist for the
42 47 Iowa state university cooperative extension service in
42 48 agriculture and home economics appointed by the
42 49 president of the senate after consultation with the
42 50 minority leader of the senate, and a private sector

43 1 economist with broad experience reviewing and
43 2 analyzing the Iowa economy and the economy of the
43 3 upper midwest appointed by the speaker of the house of
43 4 representatives after consultation with the minority
43 5 leader of the house of representatives. The
43 6 appointments shall comply with sections 69.16 and
43 7 69.16A. The chairperson of the review commission
43 8 shall be the auditor of state. The members shall be
43 9 appointed to three-year staggered terms and the terms
43 10 shall commence and end as provided by section 69.19.
43 11 If a vacancy occurs, a successor shall be appointed in
43 12 the same manner and subject to the same qualifications
43 13 as the original appointment to serve the unexpired
43 14 term. A majority of the review commission constitutes
43 15 a quorum. For purposes of this subsection, "upper
43 16 midwest" includes the states of Iowa, Kansas,
43 17 Minnesota, Missouri, Nebraska, North Dakota, and South
43 18 Dakota.

43 19 3. The review commission shall analyze all annual
43 20 reports of the grow Iowa board for purposes of
43 21 determining if the goals and performance measures set
43 22 out in section 15G.106 have been met. By January 1,
43 23 2007, the review commission shall submit a report to
43 24 the grow Iowa board, the department, and the general
43 25 assembly. The report shall include findings, itemized
43 26 by grow Iowa geographic regions, regarding whether the
43 27 goals and performance measures were met. The report
43 28 shall also include recommendations regarding the
43 29 continuation, elimination, or modification of any
43 30 programs receiving moneys from the grow Iowa fund and
43 31 whether moneys should continue to be appropriated to
43 32 and from the grow Iowa fund. The recommendations
43 33 shall be based on whether the goals in accordance with
43 34 the performance measures are being achieved.

43 35 4. The members of the commission are entitled to
43 36 receive reimbursement for actual expenses incurred
43 37 while engaged in the performance of official duties.
43 38 A commission member may also be eligible to receive
43 39 compensation as provided in section 7E.6.

43 40 Sec. 83. NEW SECTION. 15G.105 GROW IOWA
43 41 GEOGRAPHIC REGIONS.

43 42 For purposes of applying the goals and performance
43 43 measurements, the state shall be divided into five
43 44 grow Iowa geographic regions. The regions shall be
43 45 the following:

43 46 1. The northwest region shall include the counties
43 47 of Lyon, Osceola, Dickinson, Emmet, Kossuth,
43 48 Winnebago, Sioux, O'Brien, Clay, Palo Alto, Hancock,
43 49 Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt,
43 50 Wright, Woodbury, Ida, Sac, Calhoun, Webster, and
44 1 Hamilton.

44 2 2. The northeast region shall include the counties
44 3 of Worth, Mitchell, Howard, Winneshiek, Allamakee,
44 4 Cerro Gordo, Floyd, Chickasaw, Fayette, Clayton,
44 5 Franklin, Butler, Bremer, Hardin, Grundy, Black Hawk,
44 6 Buchanan, Delaware, Dubuque, Tama, Benton, Linn,
44 7 Jones, and Jackson.

44 8 3. The southeast region shall include the counties
44 9 of Poweshiek, Iowa, Johnson, Cedar, Clinton, Scott,
44 10 Muscatine, Mahaska, Keokuk, Washington, Louisa,
44 11 Monroe, Wapello, Jefferson, Henry, Des Moines,
44 12 Appanoose, Davis, Van Buren, and Lee.

44 13 4. The southwest region shall include the counties
44 14 of Monona, Crawford, Carroll, Greene, Harrison,
44 15 Shelby, Audubon, Guthrie, Pottawattamie, Cass, Adair,
44 16 Mills, Montgomery, Adams, Union, Clarke, Lucas,
44 17 Fremont, Page, Taylor, Ringgold, Decatur, and Wayne.

44 18 5. The central region shall include the counties
44 19 of Boone, Story, Marshall, Dallas, Polk, Jasper,
44 20 Madison, Warren, and Marion.

44 21 Sec. 84. NEW SECTION. 15G.106 GOALS ==
44 22 PERFORMANCE MEASURES.

44 23 1. In performing the duties provided in this
44 24 chapter, chapter 15, and chapter 15E, the grow Iowa
44 25 board, the grow Iowa investment board, the economic
44 26 development marketing board, the grow Iowa review
44 27 commission, and the department shall achieve the goals
44 28 of expanding and stimulating the state economy,
44 29 increasing the wealth of Iowans, and increasing the
44 30 population of the state. For purposes of this
44 31 section, "upper midwest region" includes the states of

44 32 Iowa, Kansas, Minnesota, Missouri, Nebraska, North
44 33 Dakota, and South Dakota.

44 34 2. Goal achievement shall be examined on a
44 35 regional basis using the grow Iowa geographic regions
44 36 and not on a statewide basis. The performance of the
44 37 grow Iowa geographic regions shall be compared to the
44 38 performance of the state, the upper midwest region,
44 39 and the United States. The baseline year shall be the
44 40 calendar year 2000. In each grow Iowa geographic
44 41 region, the goal shall be to increase the baseline
44 42 performance measures listed in subsections 3 and 4,
44 43 with the exception of subsection 3, paragraph "c", by
44 44 thirty percent.

44 45 3. a. In determining whether the goal of
44 46 expanding and stimulating the state economy has been
44 47 met, the following performance measures shall be
44 48 considered:

- 44 49 (1) An increase in Iowa's gross domestic product.
- 44 50 (2) A net increase in business start-ups.
- 45 1 (3) A net increase in business expansion.
- 45 2 (4) A net increase in business modernization.
- 45 3 (5) A net increase in attracting new businesses to
45 4 the state.
- 45 5 (6) A net increase in business retention.
- 45 6 (7) A net increase in job creation and retention.
- 45 7 (8) A decrease in Iowa of the ratio of the

45 8 government wage earnings as a percentage share of the
45 9 earnings of private industry in Iowa at a rate at
45 10 least equal to the ratio of the upper midwest region.

45 11 b. By December 15 of each year the department
45 12 shall submit a report to the grow Iowa review
45 13 commission and the grow Iowa board that identifies
45 14 information pertinent to the performance measures in
45 15 paragraph "a", subparagraphs (3), (4), and (6), that
45 16 the department gains through interviews with
45 17 businesses in the state that close all or a portion of
45 18 operations in the state.

45 19 c. By December 15 of each year the department
45 20 shall submit a report to the grow Iowa review
45 21 commission and the grow Iowa board that identifies
45 22 lost sale reports information pertinent to the
45 23 performance measures in paragraph "a", subparagraphs
45 24 (2) and (5), which indicate that the state has not
45 25 been successful in the performance measures in
45 26 paragraph "a", subparagraphs (2) and (5).

45 27 d. For purposes of the performance measure in
45 28 paragraph "a", subparagraph (7), the department of
45 29 economic development, in consultation with the
45 30 department of workforce development and the auditor of
45 31 state, shall determine an average annual job creation
45 32 and retention rate based on the ten years prior to
45 33 2003. During the fiscal years beginning July 1, 2003,
45 34 July 1, 2004, and July 1, 2005, the department of
45 35 economic development shall report the job creation and
45 36 retention rate of those businesses that receive moneys
45 37 originating from the grow Iowa fund and the job
45 38 creation and retention rate of those businesses that
45 39 do not receive moneys originating from the grow Iowa
45 40 fund. The ten-year average annual job creation and
45 41 retention rate shall be compared to the job creation
45 42 and retention rates determined under this paragraph
45 43 for the fiscal years beginning July 1, 2003, July 1,
45 44 2004, and July 1, 2005. The department of economic
45 45 development shall assist the department of workforce
45 46 development in maintaining detailed employment
45 47 statistics on businesses that receive moneys
45 48 originating from the grow Iowa fund, on businesses
45 49 that do not receive moneys originating from the grow
45 50 Iowa fund, and on industries in Iowa that those
46 1 businesses represent. The auditor of state shall
46 2 audit the accuracy of the statistics compiled pursuant
46 3 to this paragraph.

46 4 4. In determining whether the goal of increasing
46 5 the wealth of Iowans has been met, the following
46 6 performance measures shall be considered:

46 7 a. The per capita personal income in Iowa shall
46 8 equal or exceed the average per capita personal income
46 9 for the upper midwest region.

46 10 b. The average earnings per job in Iowa shall
46 11 equal or exceed the average earnings per job in the
46 12 upper midwest region.

46 13 c. The average manufacturing earnings per employee
46 14 in Iowa shall equal or exceed the average
46 15 manufacturing earnings per employee in the upper
46 16 midwest region.

46 17 d. The average service earnings per employee in
46 18 Iowa shall equal or exceed the average service
46 19 earnings per employee in the upper midwest region.

46 20 e. The average earnings per employee in the
46 21 financial, insurance, and real estate industries in
46 22 Iowa shall equal or exceed the average earnings per
46 23 employee in the financial, insurance, and real estate
46 24 industries in the upper midwest region.

46 25 5. In determining whether the goal of increasing
46 26 the population of the state has been met, the
46 27 following performance measures shall be considered:

46 28 a. The net increase in new residents in the state
46 29 gained through attracting new businesses to the state.

46 30 b. The increase in the retention of high school
46 31 graduates and college graduates from private and
46 32 public colleges and universities in the state after
46 33 graduation.

46 34 c. The ability to retain fifty percent of all
46 35 undergraduate graduates of universities under the
46 36 control of the state board of regents in the state
46 37 after graduation.

46 38 Sec. 85. NEW SECTION. 15G.107 GROW IOWA FUND.

46 39 A grow Iowa fund is created in the state treasury
46 40 under the control of the grow Iowa board consisting of
46 41 moneys appropriated to the grow Iowa board. Moneys in
46 42 the fund are not subject to section 8.33.

46 43 Notwithstanding section 12C.7, interest or earnings on
46 44 moneys in the fund shall be credited to the fund. The
46 45 fund shall be administered by the grow Iowa board,
46 46 which shall make expenditures from the fund consistent
46 47 with this chapter and pertinent Acts of the general
46 48 assembly.

46 49 Sec. 86. NEW SECTION. 15G.108 ECONOMIC
46 50 DEVELOPMENT MARKETING BOARD == MARKETING STRATEGIES ==
47 1 APPROPRIATIONS.

47 2 1. a. An economic development marketing board is
47 3 established consisting of seven members and is located
47 4 for administrative purposes within the department.
47 5 The director of the department shall provide office
47 6 space, staff assistance, and necessary supplies and
47 7 equipment for the board. The director shall budget
47 8 moneys to pay the compensation and expenses of the
47 9 board. In performing its functions, the board is
47 10 performing a public function on behalf of the state
47 11 and is a public instrumentality of the state.

47 12 b. The membership of the board shall be as
47 13 follows:

47 14 (1) Three members with significant demonstrated
47 15 experience in marketing or advertising appointed by
47 16 the governor.

47 17 (2) Four members with significant demonstrated
47 18 experience in marketing or advertising appointed by
47 19 the legislative council.

47 20 c. The appointments made by the governor shall
47 21 comply with sections 69.16 and 69.16A and shall be
47 22 subject to confirmation by the senate.

47 23 d. The chairperson and vice chairperson of the
47 24 board shall be elected by and from the board members
47 25 listed in paragraph "b". In case of the absence or
47 26 disability of the chairperson and vice chairperson,
47 27 the members of the board shall elect a temporary
47 28 chairperson by a majority vote of those members who
47 29 are present and voting.

47 30 e. The members shall be appointed to three-year
47 31 staggered terms and the terms shall commence and end
47 32 as provided by section 69.19. If a vacancy occurs, a
47 33 successor shall be appointed to serve the unexpired
47 34 term. A successor shall be appointed in the same
47 35 manner and subject to the same qualifications as the
47 36 original appointment to serve the unexpired term.

47 37 f. A majority of the board constitutes a quorum.

47 38 2. The board shall administer the approval process
47 39 provided in subsection 3.

47 40 3. The economic development marketing board shall
47 41 accept proposals for marketing strategies for purposes
47 42 of selecting a strategy for the department to
47 43 administer. The marketing strategies shall be

47 44 designed to market Iowa as a lifestyle, increase the
47 45 population of the state, increase the wealth of
47 46 Iowans, and expand and stimulate the state economy.
47 47 The economic development marketing board shall submit
47 48 a recommendation regarding the proposal to the grow
47 49 Iowa board. In selecting a marketing strategy for
47 50 recommendation, the economic development marketing
48 1 board shall base the selection on the goals and
48 2 performance measures provided in section 15G.106. The
48 3 grow Iowa board shall either approve or deny the
48 4 recommendation.

48 5 4. The department shall implement and administer
48 6 the marketing strategy approved by the grow Iowa board
48 7 as provided in subsection 3. The department shall
48 8 provide the economic development marketing board with
48 9 assistance in implementing administrative functions of
48 10 the board and provide technical assistance to the
48 11 board.

48 12 5. The members of the board are entitled to
48 13 receive reimbursement for actual expenses incurred
48 14 while engaged in the performance of official duties.
48 15 A board member may also be eligible to receive
48 16 compensation as provided in section 7E.6.

48 17 Sec. 87. NEW SECTION. 15G.109 FUTURE
48 18 CONSIDERATION.

48 19 Not later than February 1, 2007, the legislative
48 20 services agency shall prepare and deliver to the
48 21 secretary of the senate and the chief clerk of the
48 22 house of representatives identical bills that repeal
48 23 the provisions of this chapter. It is the intent of
48 24 this section that the general assembly shall bring the
48 25 bill to a vote in either the senate or the house of
48 26 representatives expeditiously. It is further the
48 27 intent of this chapter that if the bill is approved by
48 28 the first house in which it is considered, it shall
48 29 expeditiously be brought to a vote in the second
48 30 house.

48 31 DIVISION VII

48 32 VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES

48 33 FINANCIAL ASSISTANCE PROGRAM

48 34 Sec. 88. Section 15E.111, subsection 1, Code 2003,
48 35 is amended to read as follows:

48 36 1. a. The department shall establish a value=
48 37 added agricultural products and processes financial
48 38 assistance program. The department shall consult with
48 39 ~~the Iowa corn growers association and the Iowa soybean~~
48 40 ~~association Iowa commodity groups.~~ The purpose of the
48 41 program is to encourage the increased utilization of
48 42 agricultural commodities produced in this state. The
48 43 program shall assist in efforts to revitalize rural
48 44 regions of this state, by committing resources to
48 45 provide financial assistance to new or existing value=
48 46 added production facilities. The department of
48 47 economic development may consult with other state

48 48 agencies regarding any possible future environmental,
48 49 health, or safety issues linked to technology related
48 50 to the biotechnology industry. In awarding financial
49 1 assistance, the department shall prefer producer=
49 2 owned, value-added businesses and commit resources to
49 3 assist the following:

49 4 a. (1) Facilities which are involved in the
49 5 development of new innovative products and processes
49 6 related to agriculture. The facility must do either
49 7 of the following: produce a good derived from an
49 8 agricultural commodity, if the good is not commonly
49 9 produced from an agricultural commodity; or use a
49 10 process to produce a good derived from an agricultural
49 11 process, if the process is not commonly used to
49 12 produce the good.

49 13 b. (2) Renewable fuel production facilities. As
49 14 used in this section, "renewable fuel" means an energy
49 15 source which is derived from an organic compound
49 16 capable of powering machinery, including an engine or
49 17 power plant.

49 18 (3) Agricultural business facilities in the
49 19 agricultural biotechnology industry, agricultural
49 20 biomass industry, and alternative energy industry.
49 21 For purposes of this subsection:

49 22 (a) "Agricultural biomass industry" means
49 23 businesses that utilize agricultural commodity crops,
49 24 agricultural by-products, or animal feedstock in the

49 25 production of chemicals, protein products, or other
49 26 high-value products.
49 27 (b) "Agricultural biotechnology industry" means
49 28 businesses that utilize scientifically enhanced plants
49 29 or animals that can be raised by producers and used in
49 30 the production of high-value products.
49 31 (c) "Alternative energy industry" includes
49 32 businesses involved in the production of ethanol,
49 33 biodiesel, biomass, or in the production of wind
49 34 energy.
49 35 (4) Facilities that add value to Iowa agricultural
49 36 commodities through further processing and development
49 37 of organic products and emerging markets.
49 38 (5) Producer-owned, value-added businesses,
49 39 education of producers and management boards in value=
49 40 added businesses, and other activities that would
49 41 support the infrastructure in the development of
49 42 value-added agriculture. For purposes of this
49 43 subsection, "producer-owned, valued-added business"
49 44 means a person who holds an equity interest in the
49 45 agricultural business and is personally involved in
49 46 the production of crops or livestock on a regular,
49 47 continuous, and substantial basis.

49 48 b. Financial assistance awarded under this section
49 49 may be in the form of a loan, loan guarantee, grant,
49 50 production incentive payment, or a combination of
50 1 financial assistance. The department shall not award
50 2 more than twenty-five percent of the amount allocated
50 3 to the value-added agricultural products and processes
50 4 financial assistance fund during any fiscal year to
50 5 support a single person. The department may finance
50 6 any size of facility. However, the department shall
50 7 may reserve up to fifty percent of the total amount
50 8 allocated to the fund, for purposes of assisting
50 9 persons requiring ~~one~~ five hundred thousand dollars or
50 10 less in financial assistance. The amount shall be
50 11 reserved until the end of the third quarter of the
50 12 fiscal year. The department shall not provide
50 13 financial assistance to support a value-added
50 14 production facility if the facility or a person owning
50 15 a controlling interest in the facility has
50 16 demonstrated a continuous and flagrant disregard for
50 17 the health and safety of its employees or the quality
50 18 of the environment. Evidence of such disregard shall
50 19 include a history of serious or uncorrected violations
50 20 of state or federal law protecting occupational health
50 21 and safety or the environment, including but not
50 22 limited to serious or uncorrected violations of
50 23 occupational safety and health standards enforced by
50 24 the division of labor services of the department of
50 25 workforce development pursuant to chapter 84A, or
50 26 rules enforced by the department of natural resources
50 27 pursuant to chapter 455B or 459, subchapters II and
50 28 III.

50 29 DIVISION VIII
50 30 ENDOW IOWA GRANTS
50 31 Sec. 89. NEW SECTION. 15E.301 SHORT TITLE.
50 32 This division shall be known as and may be cited as
50 33 the "Endow Iowa Program Act".
50 34 Sec. 90. NEW SECTION. 15E.302 PURPOSE.
50 35 The purpose of this division is to enhance the
50 36 quality of life for citizens of this state through
50 37 increased philanthropic activity by providing capital
50 38 to new and existing citizen groups of this state
50 39 organized to establish endowment funds that will
50 40 address community needs. The purpose of this division
50 41 is also to encourage individuals, businesses, and
50 42 organizations to invest in community foundations.
50 43 Sec. 91. NEW SECTION. 15E.303 DEFINITIONS.
50 44 As used in this division, unless the context
50 45 otherwise requires:
50 46 1. "Board" means the governing board of the lead
50 47 philanthropic entity identified by the department
50 48 pursuant to section 15E.304.
50 49 2. "Business" means a business operating within
50 50 the state and includes individuals operating a sole
51 1 proprietorship or having rental, royalty, or farm
51 2 income in this state and includes a consortium of
51 3 businesses.
51 4 3. "Community affiliate organization" means a
51 5 group of five or more community leaders or advocates

51 6 organized for the purpose of increasing philanthropic
51 7 activity in an identified community or geographic area
51 8 in this state with the intention of establishing a
51 9 community affiliate endowment fund.

51 10 4. "Endowment gift" means an irrevocable
51 11 contribution to a permanent endowment held by a
51 12 qualified community foundation.

51 13 5. "Lead philanthropic entity" means the entity
51 14 identified by the department pursuant to section
51 15 15E.304.

51 16 6. "Qualified community foundation" means a
51 17 community foundation organized or operating in this
51 18 state that meets or exceeds the national standards
51 19 established by the national council on foundations.

51 20 Sec. 92. NEW SECTION. 15E.304 ENDOW IOWA GRANTS.

51 21 1. The department shall identify a lead
51 22 philanthropic entity for purposes of encouraging the
51 23 development of qualified community foundations in this
51 24 state. A lead philanthropic entity shall meet all of
51 25 the following qualifications:

51 26 a. The entity shall be a nonprofit entity which is
51 27 exempt from federal income taxation pursuant to
51 28 section 501(c)(3) of the Internal Revenue Code.

51 29 b. The entity shall be a statewide organization
51 30 with membership consisting of organizations, such as
51 31 community, corporate, and private foundations, whose
51 32 principal function is the making of grants within the
51 33 state of Iowa.

51 34 c. The entity shall have a minimum of forty
51 35 members and that membership shall include qualified
51 36 community foundations.

51 37 2. A lead philanthropic entity may receive a grant
51 38 from the department. The board shall use the grant
51 39 moneys to award endow Iowa grants to new and existing
51 40 qualified community foundations and to community
51 41 affiliate organizations that do all of the following:

51 42 a. Provide the board with all information required
51 43 by the board.

51 44 b. Demonstrate a dollar=for=dollar funding match
51 45 in a form approved by the board.

51 46 c. Identify a qualified community foundation to
51 47 hold all funds. A qualified community foundation
51 48 shall not be required to meet this requirement.

51 49 d. Provide a plan to the board demonstrating the
51 50 method for distributing grant moneys received from the
52 1 board to organizations within the community or
52 2 geographic area as defined by the qualified community
52 3 foundation or the community affiliate organization.

52 4 3. Endow Iowa grants awarded to new and existing
52 5 qualified community foundations and to community
52 6 affiliate organizations shall not exceed twenty=five
52 7 thousand dollars per foundation or organization unless
52 8 a foundation or organization demonstrates a multiple
52 9 county or regional approach. Endow Iowa grants may be
52 10 awarded on an annual basis with not more than three
52 11 grants going to one county in a fiscal year.

52 12 4. In ranking applications for grants, the board
52 13 shall consider a variety of factors including the
52 14 following:

52 15 a. The demonstrated need for financial assistance.

52 16 b. The potential for future philanthropic activity
52 17 in the area represented by or being considered for
52 18 assistance.

52 19 c. The proportion of the funding match being
52 20 provided.

52 21 d. For community affiliate organizations, the
52 22 demonstrated need for the creation of a community
52 23 affiliate endowment fund in the applicant's geographic
52 24 area.

52 25 e. The identification of community needs and the
52 26 manner in which additional funding will address those
52 27 needs.

52 28 f. The geographic diversity of awards.

52 29 5. Of any moneys received by a lead philanthropic
52 30 entity from the state, not more than five percent of
52 31 such moneys shall be used by the entity for
52 32 administrative purposes.

52 33 Sec. 93. NEW SECTION. 15E.306 REPORTS == AUDITS.

52 34 By January 31 of each year, the lead philanthropic
52 35 entity, in cooperation with the department, shall
52 36 publish an annual report of the activities conducted

52 37 pursuant to this division during the previous calendar
52 38 year and shall submit the report to the governor and
52 39 the general assembly. The annual report shall include
52 40 a listing of endowment funds and the amount of tax
52 41 credits authorized by the department.
52 42 Sec. 94. EFFECTIVE AND RETROACTIVE APPLICABILITY
52 43 DATES. This division of this Act, being deemed of
52 44 immediate importance, takes effect upon enactment and
52 45 is retroactively applicable to January 1, 2003, for
52 46 tax years beginning on or after that date.

52 47 DIVISION IX

52 48 TECHNOLOGY TRANSFER ADVISORS

52 49 Sec. 95. NEW SECTION. 7.23 TECHNOLOGY TRANSFER
52 50 ADVISOR.

53 1 Two technology transfer advisors shall be appointed
53 2 by the governor, serve at the pleasure of the
53 3 governor, and be located at offices at the university
53 4 of Iowa and Iowa state university of science and
53 5 technology. A technology transfer advisor is not a
53 6 state agency and is not subject to chapter 17A. A
53 7 technology transfer advisor shall do all of the
53 8 following:

53 9 1. Facilitate the transfer of technology developed
53 10 at the university of Iowa, the university of northern
53 11 Iowa, Iowa state university of science and technology,
53 12 community colleges, and private colleges and
53 13 universities.

53 14 2. Coordinate the technology transfer activities
53 15 at each of the public and private universities to
53 16 encourage the implementation of best practices in
53 17 technology transfer, establish measures of
53 18 performance, and design programs of continuous quality
53 19 improvement for each technology transfer office.

53 20 3. Establish technology transfer goals for the
53 21 state.

53 22 4. Provide technical assistance to Iowa-based
53 23 entrepreneurs associated with or unrelated to the
53 24 universities under the control of the state board of
53 25 regents regarding technology transfer-related issues.
53 26 The technical assistance shall include assistance in
53 27 the areas of patents and licensing, business
53 28 development and management, finance, production,
53 29 sales, and marketing.

53 30 5. Receive the technology transfer-related report
53 31 submitted by the state board of regents pursuant to
53 32 section 262.9, subsection 31.

53 33 6. To ensure economic growth, serve as a
53 34 coordinator between Iowa-based businesses and
53 35 businesses intending to locate in Iowa.

53 36 Sec. 96. Section 15.108, Code 2003, is amended by
53 37 adding the following new subsection:

53 38 NEW SUBSECTION. 12. TECHNOLOGY TRANSFER ADVISORS.
53 39 The department shall cooperate with and provide
53 40 staffing support to the technology transfer advisors
53 41 appointed pursuant to section 7.23.

53 42 Sec. 97. Section 262.9, Code 2003, is amended by
53 43 adding the following new subsections:

53 44 NEW SUBSECTION. 29. Actively encourage and
53 45 promote the transfer of technology and research at
53 46 universities under the control of the board to
53 47 commercial application, including the start-up of
53 48 business entities.

53 49 NEW SUBSECTION. 30. Give preference and technical
53 50 support to those faculty members and staff members
54 1 desiring to obtain licenses for intellectual property
54 2 rights created in whole or in part by the faculty
54 3 member or staff member. However, such preference
54 4 shall not be construed to be a right accruing to that
54 5 faculty member or staff member.

54 6 NEW SUBSECTION. 31. By January 15 of each year,
54 7 submit a report to the governor, through the
54 8 technology transfer advisors, and the general assembly
54 9 containing information from the previous calendar year
54 10 regarding all of the following:

54 11 a. Patents secured or applied for by each
54 12 university under the control of the board delineated
54 13 by university and by faculty member and staff member
54 14 responsible for the research or activity that resulted
54 15 in the patent. In the initial report filed by January
54 16 15, 2004, the board shall include an inventory of
54 17 patent portfolios with details concerning which

54 18 patents are creating financial benefit and the amount
54 19 of financial benefit and which patents are not
54 20 creating financial benefit and the amount invested in
54 21 those patents.
54 22 b. Research grants secured by each university
54 23 under the control of the board from both public and
54 24 private sources delineated by university and by
54 25 faculty member and staff member. The board shall also
54 26 include the same information for grant applications
54 27 that are denied.
54 28 c. The number of faculty members and staff members
54 29 at each university under the control of the board
54 30 involved in a start-up company.
54 31 d. The number of grant applications for research
54 32 received by each university under the control of the
54 33 board for start-up companies, the number of
54 34 applications approved, and the number of applications
54 35 denied.
54 36 e. The number of agreements entered into by
54 37 faculty members and staff members at each university
54 38 under the control of the board with foundations
54 39 affiliated with the universities relating to business
54 40 start-ups.
54 41 f. An accounting of the financial gain received by
54 42 each university under the control of the board
54 43 relating to patents sold, royalties received,
54 44 licensing fees, and any other remuneration received by
54 45 the university related to technology transfer.
54 46 g. The number of professional employees at each
54 47 university under the control of the board who assist
54 48 in the transfer of technology and research to
54 49 commercial application.
54 50 Sec. 98. This division of this Act is repealed
55 1 July 1, 2008.

55 2 DIVISION X
55 3 IOWA ECONOMIC DEVELOPMENT
55 4 LOAN AND CREDIT GUARANTEE FUND

55 5 Sec. 99. NEW SECTION. 15E.221 SHORT TITLE.
55 6 This division shall be known and may be cited as
55 7 the "Iowa Economic Development Loan and Credit
55 8 Guarantee Fund Act".

55 9 Sec. 100. NEW SECTION. 15E.222 LEGISLATIVE
55 10 FINDING == PURPOSES.

55 11 1. The general assembly finds all of the
55 12 following:

55 13 a. That small and medium-sized businesses, in
55 14 general, and certain targeted industry businesses and
55 15 other qualified businesses, in particular, may not
55 16 qualify for conventional financing.

55 17 b. That the limited availability of credit for
55 18 export transactions limits the ability of small and
55 19 medium-sized businesses in this state to compete in
55 20 international markets.

55 21 c. That, to enhance competitiveness and foster
55 22 economic development, this state must focus on growth
55 23 in certain specific targeted industry businesses and
55 24 other qualified businesses, especially during a time
55 25 of war.

55 26 d. That the challenge for the public economic
55 27 sector is to create an atmosphere conducive to
55 28 economic growth, in conjunction with financial
55 29 institutions in the private sector, which fill the
55 30 gaps in credit availability and export finance, and
55 31 that allow the private sector to identify the lending
55 32 opportunities and foster decision making at the local
55 33 level.

55 34 2. The general assembly declares the purposes of
55 35 this division to be all of the following:

55 36 a. To create incentives and assistance to increase
55 37 the flow of private capital to targeted industry
55 38 businesses and other qualified businesses.

55 39 b. To promote industrial modernization and
55 40 technology adoption.

55 41 c. To encourage the retention and creation of
55 42 jobs.

55 43 d. To encourage the export of goods and services
55 44 sold by Iowa businesses in national and international
55 45 markets.

55 46 Sec. 101. NEW SECTION. 15E.223 DEFINITIONS.

55 47 As used in this division, unless the context
55 48 otherwise requires:

55 49 1. "Financial institution" means an institution
55 50 listed in section 422.61, subsection 1, or such other
56 1 financial institution as defined by the department for
56 2 purposes of this division.
56 3 2. "Program" means the loan and credit guarantee
56 4 program established in this division.
56 5 3. "Qualified business" means an existing or
56 6 proposed business entity with an annual average number
56 7 of employees not exceeding two hundred employees.
56 8 "Qualified business" does not include businesses
56 9 engaged primarily in retail sales, real estate, or the
56 10 provision of health care or other professional
56 11 services. "Qualified business" includes professional
56 12 services businesses that provide services to targeted
56 13 industry businesses or other entities within and
56 14 outside of this state.
56 15 4. "Targeted industry business" means an existing
56 16 or proposed business entity, including an emerging
56 17 small business or qualified business which is operated
56 18 for profit and which has a primary business purpose of
56 19 doing business in at least one of the targeted
56 20 industries designated by the department which include
56 21 life sciences, software and information technology,
56 22 advanced manufacturing, value-added agriculture, and
56 23 any other industry designated as a targeted industry
56 24 by the loan and credit guarantee advisory board.
56 25 Sec. 102. NEW SECTION. 15E.224 LOAN AND CREDIT
56 26 GUARANTEE PROGRAM.
56 27 1. The department shall, with the advice of the
56 28 loan and credit guarantee advisory board, establish
56 29 and administer a loan and credit guarantee program.
56 30 The department, pursuant to agreements with financial
56 31 institutions, shall provide loan and credit
56 32 guarantees, or other forms of credit guarantees for
56 33 qualified businesses and targeted industry businesses
56 34 for eligible project costs. A loan or credit
56 35 guarantee provided under the program may stand alone
56 36 or may be used in conjunction with or to enhance other
56 37 loans or credit guarantees, offered by private, state,
56 38 or federal entities. However, the department shall
56 39 not in any manner directly or indirectly pledge the
56 40 credit of the state. Eligible project costs include
56 41 expenditures for productive equipment and machinery,
56 42 working capital for operations and export
56 43 transactions, research and development, marketing, and
56 44 such other costs as the department may so designate.
56 45 2. A loan or credit guarantee or other form of
56 46 credit guarantee provided under the program to a
56 47 participating financial institution for a single
56 48 qualified business or targeted industry business shall
56 49 not exceed one million dollars in value. Loan or
56 50 credit guarantees or other forms of credit guarantees
57 1 provided under the program to more than one
57 2 participating financial institution for a single
57 3 qualified business or targeted industry business shall
57 4 not exceed ten million dollars in value.
57 5 3. In administering the program, the department
57 6 shall consult and cooperate with financial
57 7 institutions in this state and with the loan and
57 8 credit guarantee advisory board. Administrative
57 9 procedures and application procedures, as practicable,
57 10 shall be responsive to the needs of qualified
57 11 businesses, targeted industry businesses, and
57 12 financial institutions, and shall be consistent with
57 13 prudent investment and lending practices and criteria.
57 14 4. Each participating financial institution shall
57 15 identify and underwrite potential lending
57 16 opportunities with qualified businesses and targeted
57 17 industry businesses. Upon a determination by a
57 18 participating financial institution that a qualified
57 19 business or targeted industry business meets the
57 20 underwriting standards of the financial institution,
57 21 subject to the approval of a loan or credit guarantee,
57 22 the financial institution shall submit the
57 23 underwriting information and a loan or credit
57 24 guarantee application to the department.
57 25 5. The department, with the advice of the loan and
57 26 credit guarantee advisory board, shall adopt a loan or
57 27 credit guarantee application procedure for a financial
57 28 institution on behalf of a qualified business or
57 29 targeted industry business.

57 30 6. Upon approval of a loan or credit guarantee,
57 31 the department shall enter into a loan or credit
57 32 guarantee agreement with the participating financial
57 33 institution. The agreement shall specify all of the
57 34 following:
57 35 a. The fee to be charged to the financial
57 36 institution.
57 37 b. The evidence of debt assurance of, and security
57 38 for, the loan or credit guarantee.
57 39 c. A loan or credit guarantee that does not exceed
57 40 fifteen years.
57 41 d. Any other terms and conditions considered
57 42 necessary or desirable by the department.

57 43 7. The department, with the advice of the loan and
57 44 credit guarantee advisory board, may adopt loan and
57 45 credit guarantee application procedures that allow a
57 46 qualified business or targeted industry business to
57 47 apply directly to the department for a preliminary
57 48 guarantee commitment. A preliminary guarantee
57 49 commitment may be issued by the department subject to
57 50 the qualified business or targeted industry business
58 1 securing a commitment for financing from a financial
58 2 institution. The application procedures shall specify
58 3 the process by which a financial institution may
58 4 obtain a final loan and credit guarantee.

58 5 Sec. 103. NEW SECTION. 15E.225 TERMS == FEES.

58 6 1. When entering into a loan or credit guarantee
58 7 agreement, the department, with the advice of the loan
58 8 and credit guarantee advisory board, shall establish
58 9 fees and other terms for participation in the program
58 10 by qualified businesses and targeted industry
58 11 businesses.

58 12 2. The department, with due regard for the
58 13 possibility of losses and administrative costs and
58 14 with the advice of the loan and credit guarantee
58 15 advisory board, shall set fees and other terms at
58 16 levels sufficient to assure that the program is self=
58 17 financing.

58 18 3. For a preliminary guarantee commitment, the
58 19 department may charge a qualified business or targeted
58 20 industry business a preliminary guarantee commitment
58 21 fee. The application fee shall be in addition to any
58 22 other fees charged by the department under this
58 23 section and shall not exceed one thousand dollars for
58 24 an application.

58 25 Sec. 104. NEW SECTION. 15E.226 LOAN AND CREDIT
58 26 GUARANTEE ADVISORY BOARD.

58 27 The department, in consultation with the
58 28 superintendent of banking, shall establish a loan and
58 29 credit guarantee advisory board. The advisory board
58 30 shall provide the department with technical advice
58 31 regarding the administration of the program, including
58 32 the adoption of administrative rules pursuant to
58 33 chapter 17A. The advisory board shall review and
58 34 provide recommendations regarding all applications
58 35 under the program. Members of the advisory board are
58 36 entitled to receive reimbursement for actual expenses
58 37 incurred while engaged in the performance of official
58 38 duties. Advisory board members may also be eligible
58 39 to receive compensation as provided in section 7E.6.
58 40 The director of the department shall budget moneys to
58 41 pay the compensation and expenses of the advisory
58 42 board.

58 43 Sec. 105. This division of this Act is repealed
58 44 July 1, 2008.

58 45 DIVISION XI

58 46 ECONOMIC DEVELOPMENT ASSISTANCE AND DATA COLLECTION
58 47 Sec. 106. NEW SECTION. 15E.118 BUSINESS START=UP
58 48 INFORMATION == INTERNET WEB SITE.

58 49 The department shall provide information through an
58 50 internet web site and a toll-free telephone service to
59 1 assist persons interested in establishing a commercial
59 2 facility or engaging in a commercial activity. The
59 3 information shall include all of the following:

- 59 4 1. Assistance, information, and guidance for
59 5 start-up businesses.
- 59 6 2. Information gathered by the department pursuant
59 7 to section 15E.17, subsection 2.
- 59 8 3. Personal and corporate income tax information.
- 59 9 4. Information regarding financial assistance and
59 10 incentives available to businesses.

59 11 5. Workforce availability in the state presented
59 12 in a regional format.
59 13 Sec. 107. NEW SECTION. 15E.119 ECONOMIC
59 14 DEVELOPMENT=RELATED DATA COLLECTION.
59 15 1. The department shall interview any business
59 16 that considered locating in Iowa but decided to locate
59 17 elsewhere. The department shall attempt to determine
59 18 factors that affected the location decision of the
59 19 business.
59 20 2. The department shall interview any business
59 21 that closes major operations in the state or dissolves
59 22 the business's corporate status in an effort to
59 23 identify factors that led to the closure or
59 24 dissolution.
59 25 3. By January 15 of each year, the department
59 26 shall submit a written report to the general assembly
59 27 that summarizes the information collected pursuant to
59 28 this section.

59 29 Sec. 108. INTERNET WEB SITE DEVELOPMENT. In
59 30 developing the internet web site required in section
59 31 15E.118, the department of economic development shall
59 32 examine similar efforts in other states and
59 33 incorporate the best practices.

DIVISION XII

CULTURAL AND ENTERTAINMENT DISTRICTS

59 36 Sec. 109. NEW SECTION. 303.3B CULTURAL AND
59 37 ENTERTAINMENT DISTRICTS.

59 38 1. The department of cultural affairs shall
59 39 establish and administer a cultural and entertainment
59 40 district certification program. The program shall
59 41 encourage the growth of communities through the
59 42 development of areas within a city or county for
59 43 public and private uses related to cultural and
59 44 entertainment purposes.

59 45 2. A city or county may create and designate a
59 46 cultural and entertainment district subject to
59 47 certification by the department of cultural affairs,
59 48 in consultation with the department of economic
59 49 development. A cultural and entertainment district
59 50 shall consist of a geographic area not exceeding one
60 1 square mile in size. A cultural and entertainment
60 2 district certification shall remain in effect for ten
60 3 years following the date of certification. Two or
60 4 more cities or counties may apply jointly for
60 5 certification of a district that extends across a
60 6 common boundary. Through the adoption of
60 7 administrative rules, the department of cultural
60 8 affairs shall develop a certification application for
60 9 use in the certification process.

60 10 3. The department of cultural affairs shall
60 11 encourage development projects and activities located
60 12 in certified cultural and entertainment districts
60 13 through incentives under cultural grant programs
60 14 pursuant to section 303.3, chapter 303A, and any other
60 15 grant programs.

DIVISION XIII

WORKFORCE ISSUES

60 18 Sec. 110. NEW SECTION. 15A.10 JOB RETENTION ==
60 19 INCENTIVES.

60 20 1. In order to assure the retention of existing
60 21 jobs that would otherwise be lost, the director of the
60 22 department of economic development may authorize
60 23 incentives and assistance provided to a business under
60 24 this section for a period not to exceed ten years upon
60 25 finding the following:

60 26 a. The business currently employing, at one place
60 27 of business, at least one thousand employees is likely
60 28 to close or substantially reduce employment.

60 29 b. The business agrees to remain in the state for
60 30 at least ten years and invest at least fifteen million
60 31 dollars to retool or upgrade facilities.

60 32 2. Incentives and assistance that may be
60 33 authorized by the director include any of the
60 34 following:

60 35 a. New jobs credit from withholding, as provided
60 36 in section 15.331.

60 37 b. Sales, services, and use tax refund, as
60 38 provided in section 15.331A.

60 39 c. Investment tax credit, as provided in section
60 40 15.333.

60 41 d. Research activities tax credit, as provided in

60 42 section 15.335.

60 43 3. A business shall enter into an agreement with
60 44 the department and the city or county specifying the
60 45 terms and conditions that must be met in exchange for
60 46 the incentives and assistance authorized in this
60 47 section. The agreement shall specify how the
60 48 incentives will be repaid in the event the business
60 49 fails to meet or maintain the terms and conditions of
60 50 the agreement.

61 1 DIVISION XIV

61 2 UNIVERSITY=BASED RESEARCH UTILIZATION PROGRAM

61 3 Sec. 111. NEW SECTION. 262B.11 UNIVERSITY=BASED
61 4 RESEARCH UTILIZATION PROGRAM.

61 5 1. The department of economic development shall
61 6 establish and administer a university=based research
61 7 utilization program for purposes of encouraging the
61 8 utilization of university=based research, primarily in
61 9 the area of high technology, in new or existing
61 10 businesses. The program shall include the three
61 11 universities under the control of the state board of
61 12 regents and all accredited private universities
61 13 located in the state.

61 14 2. A new or existing business that utilizes a
61 15 technology developed by an employee at a university
61 16 under the control of the state board of regents may
61 17 apply to the department of economic development for
61 18 approval to participate in the university=based
61 19 research utilization program. The department shall
61 20 approve an applicant if the applicant meets all of the
61 21 following criteria:

61 22 a. The applicant utilizes a technology developed
61 23 by an employee at a university under the control of
61 24 the state board of regents, provided that the
61 25 technology has received a patent after the effective
61 26 date of this Act. If the applicant has been in
61 27 existence more than one year prior to applying, the
61 28 applicant shall organize a separate company to utilize
61 29 the technology. For purposes of this section, the
61 30 separate company shall be considered the applicant
61 31 and, if approved, the approved business.

61 32 b. The applicant develops a five=year business
61 33 plan approved by the department. The plan shall
61 34 include information concerning the applicant's Iowa
61 35 employment goals and projected impact on the Iowa
61 36 economy. The department shall only approve plans
61 37 showing sufficient potential impact on Iowa employment
61 38 and economic development.

61 39 c. The applicant meets a minimum=size business
61 40 standard determined by the department.

61 41 d. The applicant provides annual reports to the
61 42 department that include employment statistics for the
61 43 applicant and the total taxable wages paid to Iowa
61 44 employees and reported to the department of revenue
61 45 and finance pursuant to section 422.16.

61 46 3. A business approved under the program and the
61 47 university employee responsible for the development of
61 48 the technology utilized by the approved business shall
61 49 be eligible for a tax credit. The credit shall be
61 50 allowed against the taxes imposed in chapter 422,
62 1 divisions II and III. An individual may claim a tax
62 2 credit under this section of a partnership, limited
62 3 liability company, S corporation, estate, or trust
62 4 electing to have income taxed directly to the
62 5 individual. The amount claimed by the individual
62 6 shall be based upon the pro rata share of the
62 7 individual's earnings from the partnership, limited
62 8 liability company, S corporation, estate, or trust. A
62 9 tax credit shall not be claimed under this subsection
62 10 unless a tax credit certificate issued by the
62 11 department of economic development is attached to the
62 12 taxpayer's tax return for the tax year for which the
62 13 tax credit is claimed. The amount of a tax credit
62 14 allowed under this subsection shall equal the amount
62 15 listed on a tax credit certificate issued by the
62 16 department of economic development pursuant to
62 17 subsection 4. A tax credit certificate shall not be
62 18 transferable. Any tax credit in excess of the
62 19 taxpayer's liability for the tax year may be credited
62 20 to the taxpayer's tax liability for the following five
62 21 years or until depleted, whichever occurs first. A
62 22 tax credit shall not be carried back to a tax year

62 23 prior to the tax year in which the taxpayer redeems
62 24 the tax credit.

62 25 4. For the five tax years following the tax year
62 26 in which a business is approved under the program, the
62 27 department of revenue and finance shall provide the
62 28 department of economic development with information
62 29 required by the department of economic development
62 30 from each tax return filed by the approved business.
62 31 Upon receiving the tax return-related information, the
62 32 department of economic development shall do all of the
62 33 following:

62 34 a. Review the information provided by the
62 35 department of revenue and finance pursuant to this
62 36 subsection and the annual report submitted by the
62 37 applicant pursuant to subsection 2, paragraph "d". If
62 38 the department determines that the business activities
62 39 of the applicant are not providing the benefits to
62 40 Iowa employment and economic development projected in
62 41 the applicant's approved five-year business plan, the
62 42 department shall not issue tax credit certificates for
62 43 that year to the applicant or university employee and
62 44 shall determine any related university share to be
62 45 equal to zero for that year.

62 46 b. Effective for the fiscal year beginning July 1,
62 47 2004, and for subsequent fiscal years, issue a tax
62 48 credit certificate to the approved business and the
62 49 university employee responsible for the development of
62 50 the technology utilized by the approved business in an
63 1 amount determined pursuant to subsection 5. A tax
63 2 credit certificate shall contain the taxpayer's name,
63 3 address, tax identification number, the amount of the
63 4 tax credit, and other information required by the
63 5 department of revenue and finance.

63 6 c. (1) Determine the university share which is
63 7 equal to the value of thirty percent of the tax
63 8 liability of the approved business for purposes of
63 9 making an appropriation pursuant to section 262B.12,
63 10 if enacted by 2003 Iowa Acts, House File 683 or
63 11 another Act, to the university where the technology
63 12 utilized by the approved business was developed. A
63 13 university share shall not exceed two hundred twenty=
63 14 five thousand dollars per year per technology
63 15 utilized. For each technology utilized, the aggregate
63 16 university share over a five-year period shall not
63 17 exceed six hundred thousand dollars.

63 18 (2) The department shall maintain records for each
63 19 university during each fiscal year regarding the
63 20 university share each university is entitled to
63 21 receive through the appropriation in section 262B.12,
63 22 if enacted by 2003 Iowa Acts, House File 683 or
63 23 another Act. A university shall be entitled to
63 24 receive the total university share for that particular
63 25 university during the previous fiscal year.

63 26 d. For the fiscal year beginning July 1, 2004, not
63 27 more than two million dollars worth of certificates
63 28 shall be issued pursuant to paragraph "b". For the
63 29 fiscal year beginning July 1, 2005, and every fiscal
63 30 year thereafter, not more than ten million dollars
63 31 worth of certificates shall be issued pursuant to
63 32 paragraph "b".

63 33 5. The tax credit certificates issued by the
63 34 department for each of the five years following the
63 35 tax year in which the business is approved under the
63 36 program shall be for the following amounts:

63 37 a. For the approved business, the value of the tax
63 38 credit certificate shall equal thirty percent of the
63 39 tax liability of the approved business. The value of
63 40 a certificate issued to an approved business shall not
63 41 exceed two hundred twenty-five thousand dollars. The
63 42 total aggregate value of certificates issued over a
63 43 five-year period to an approved business shall not
63 44 exceed six hundred thousand dollars.

63 45 b. For the university employee responsible for the
63 46 development of the technology utilized by the approved
63 47 business, the value of the tax credit certificate
63 48 shall equal ten percent of the tax liability of the
63 49 approved business. If more than one employee is
63 50 responsible for the development of the technology, the
64 1 value equal to ten percent of the tax liability of the
64 2 approved business shall be divided equally and
64 3 individual tax credit certificates shall be issued to

64 4 each employee responsible for the development of the
64 5 technology. Each year, the total value of a
64 6 certificate or certificates issued for a utilized
64 7 technology shall not exceed seventy-five thousand
64 8 dollars. For each technology utilized, the total
64 9 aggregate value of certificates issued over a five=
64 10 year period to the university employee responsible for
64 11 the development of the technology shall not exceed two
64 12 hundred thousand dollars.

64 13 6. The department of economic development shall
64 14 notify the department of revenue and finance when a
64 15 tax credit certificate is issued pursuant to
64 16 subsection 4. The notification shall include the name
64 17 and tax identification number appearing on any tax
64 18 credit certificate.

64 19 Sec. 112. NEW SECTION. 422.11H UNIVERSITY=BASED
64 20 RESEARCH UTILIZATION PROGRAM TAX CREDIT.

64 21 The taxes imposed under this division, less the
64 22 credits allowed under sections 422.12 and 422.12B,
64 23 shall be reduced by a university-based research
64 24 utilization program tax credit authorized pursuant to
64 25 section 262B.11.

64 26 Sec. 113. Section 422.33, Code 2003, is amended by
64 27 adding the following new subsection:

64 28 NEW SUBSECTION. 14. The taxes imposed under this
64 29 division shall be reduced by a university-based
64 30 research utilization program tax credit authorized
64 31 pursuant to section 262B.11.

64 32 DIVISION XV
64 33 FUTURE REPEAL

64 34 Sec. 114. The divisions of this Act designated the
64 35 grow Iowa board and fund, the value-added agricultural
64 36 products and processes financial assistance program,
64 37 the endow Iowa grants, the technology transfer
64 38 advisors, the Iowa economic development loan and
64 39 credit guarantee fund, the economic development
64 40 assistance and data collection, the cultural and
64 41 entertainment districts, the workforce issues, and the
64 42 university-based research utilization program, are
64 43 repealed effective June 30, 2010.

64 44 DIVISION XVI
64 45 LIABILITY REFORM

64 46 Sec. 115. Section 668.12, Code 2003, is amended to
64 47 read as follows:

64 48 668.12 LIABILITY FOR PRODUCTS == ~~STATE OF THE ART~~
64 49 ~~DEFENSE DEFENSES.~~

64 50 1. In any action brought pursuant to this chapter
65 1 against an assembler, designer, supplier of
65 2 specifications, distributor, manufacturer, or seller
65 3 for damages arising from an alleged defect in the
65 4 design, testing, manufacturing, formulation,
65 5 packaging, warning, or labeling of a product, a
65 6 percentage of fault shall not be assigned to such
65 7 persons if they plead and prove that the product
65 8 conformed to the state of the art in existence at the
65 9 time the product was designed, tested, manufactured,
65 10 formulated, packaged, provided with a warning, or
65 11 labeled.

65 12 2. Nothing contained in ~~this section~~ subsection 1
65 13 shall diminish the duty of an assembler, designer,
65 14 supplier of specifications, distributor, manufacturer
65 15 or seller to warn concerning subsequently acquired
65 16 knowledge of a defect or dangerous condition that
65 17 would render the product unreasonably dangerous for
65 18 its foreseeable use or diminish the liability for
65 19 failure to so warn.

65 20 3. An assembler, designer, supplier of
65 21 specifications, distributor, manufacturer, or seller
65 22 shall not be subject to liability under a theory of
65 23 civil conspiracy unless the person knowingly and
65 24 voluntarily entered into an agreement, express or
65 25 implied, to participate in a common plan with the
65 26 intent to commit a tortious act upon another. Mere
65 27 membership in a trade or industrial association or
65 28 group is not, in and of itself, evidence of such an
65 29 agreement.

65 30 Sec. 116. Section 668A.1, subsection 1, Code 2003,
65 31 is amended to read as follows:

65 32 1. In a trial of a claim involving the request for
65 33 punitive or exemplary damages, the court shall
65 34 instruct the jury to answer special interrogatories

65 35 or, if there is no jury, shall make findings,
65 36 indicating all of the following:

~~65 37 a. Whether, by a preponderance of clear,
65 38 convincing, and satisfactory evidence, the conduct of
65 39 the defendant from which the claim arose constituted
65 40 willful and wanton disregard for the rights or safety
65 41 of another.~~

65 42 b. Whether the conduct of the defendant was
65 43 directed specifically at the claimant, or at the
65 44 person from which the claimant's claim is derived.

~~65 45 b. Whether, by a preponderance of clear and
65 46 convincing evidence, the conduct of the defendant from
65 47 which the claim arose constituted actual malice.~~

65 48 Sec. 117. NEW SECTION. 668A.2 DEFINITIONS.

65 49 As used in this chapter, the following terms shall
65 50 have the following meanings:

66 1 1. "Clear and convincing evidence" means evidence
66 2 which leaves no serious or substantial doubt about the
66 3 correctness of the conclusions drawn from the
66 4 evidence. It is more than a preponderance of
66 5 evidence, but less than beyond a reasonable doubt.

66 6 2. "Malice" means either conduct which is
66 7 specifically intended by the defendant to cause
66 8 tangible or intangible serious injury to the plaintiff
66 9 or conduct that is carried out by the defendant both
66 10 with a flagrant indifference to the rights of the
66 11 plaintiff and with a subjective awareness that such
66 12 conduct will result in tangible serious injury.

66 13 Sec. 118. NEW SECTION. 668A.3 AWARD OF PUNITIVE
66 14 OR EXEMPLARY DAMAGES == PROOF == STANDARD.

66 15 Punitive or exemplary damages shall only be awarded
66 16 where the plaintiff proves by clear and convincing
66 17 evidence that the plaintiff's harm was the result of
66 18 actual malice. This burden of proof shall not be
66 19 satisfied by proof of any degree of negligence,
66 20 including gross negligence.

66 21 Sec. 119. APPLICABILITY. This division of this
66 22 Act, relating to liability reform, applies to cases
66 23 filed on or after July 1, 2003.

66 24 DIVISION XVII

66 25 WORKERS' COMPENSATION

66 26 Sec. 120. Section 85.34, subsection 2, unnumbered
66 27 paragraph 1, Code 2003, is amended to read as follows:

66 28 Compensation for permanent partial disability shall
66 29 begin at the termination of the healing period
66 30 provided in subsection 1. The compensation shall be
66 31 in addition to the benefits provided by sections 85.27
66 32 and 85.28. The compensation shall be based only upon
66 33 the extent of the disability related to the injury
66 34 received and upon the basis of eighty percent per week

66 35 of the employee's average spendable weekly earnings,
66 36 but not more than a weekly benefit amount, rounded to
66 37 the nearest dollar, equal to one hundred eighty-four
66 38 percent of the statewide average weekly wage paid
66 39 employees as determined by the department of workforce
66 40 development under section 96.19, subsection 36, and in
66 41 effect at the time of the injury. The minimum weekly
66 42 benefit amount shall be equal to the weekly benefit
66 43 amount of a person whose gross weekly earnings are
66 44 thirty-five percent of the statewide average weekly
66 45 wage. For all cases of permanent partial disability
66 46 compensation shall be paid as follows:

66 47 Sec. 121. Section 85.34, subsection 2, paragraph
66 48 u, Code 2003, is amended by adding the following new
66 49 unnumbered paragraph after unnumbered paragraph 2 as
66 50 follows:

67 1 NEW UNNUMBERED PARAGRAPH. When an employee makes a
67 2 claim for benefits under this subsection, the employer
67 3 is not liable for that portion of the employee's
67 4 present disability caused by a prior work-related
67 5 injury or illness that was sustained by the employee
67 6 while the employee was employed by a different
67 7 employer. When an employee's present disability
67 8 includes disability caused by a prior work-related
67 9 injury or illness that was sustained by the employee
67 10 while in the employ of the same employer, the employer
67 11 is liable for compensating all of the employee's work-
67 12 related disability sustained by the employee while in
67 13 the employ of the employer, except that any portion of
67 14 the disability that was previously compensated by the
67 15 employer shall be deducted from the employer's

67 16 obligation to pay benefits for the employee's present
67 17 disability. If an employee's present disability is
67 18 reduced by a portion of disability sustained from
67 19 prior work-related injuries or illnesses for which the
67 20 employee has already been compensated by the same
67 21 employer, then the employee shall receive compensation
67 22 for the remaining disability caused by the present
67 23 work-related injury or illness plus an additional ten
67 24 percent of the amount of the increase in disability.
67 25 Sec. 122. APPLICABILITY. This division of this
67 26 Act, relating to workers' compensation, applies to an
67 27 injury occurring on or after July 1, 2003.

67 28 DIVISION XVIII
67 29 FINANCIAL SERVICES

67 30 Sec. 123. Section 537.2502, subsections 3 and 6,
67 31 Code 2003, are amended to read as follows:

67 32 3. A delinquency charge shall not be collected
67 33 under subsection 1, paragraph "a", on an installment
67 34 ~~which that~~ is paid in full within ten days after its
67 35 scheduled or deferred installment due date even though
67 36 an earlier maturing installment or a delinquency or
67 37 deferral charge on an earlier installment may not have
67 38 been paid in full. For purposes of this subsection,
67 39 payments associated with a precomputed transaction are
67 40 applied first to current installments and then to
67 41 delinquent installments.

67 42 6. A delinquency charge shall not be collected
67 43 under subsection 4 on a payment ~~which associated with~~
67 44 a precomputed transaction that is paid in full on or
67 45 before its scheduled or deferred due date even though
67 46 an earlier maturing payment or a delinquency or
67 47 deferred charge on an earlier payment has not been
67 48 paid in full. For purposes of this subsection,
67 49 payments are applied first to amounts due for the
67 50 current billing cycle and then to delinquent payments.

68 1 Sec. 124. Section 537.2601, subsection 1, Code
68 2 2003, is amended to read as follows:

68 3 1. ~~Except as provided in subsection 2, with~~ With
68 4 respect to a credit transaction other than a consumer
68 5 credit transaction, the parties may contract for the
68 6 payment by the debtor of any finance or other charge
68 7 as permitted by law. ~~Except with respect to debt~~
68 8 ~~obligations issued by a government, governmental~~
68 9 ~~agency or instrumentality, in calculating any finance~~
68 10 ~~charge contracted for, any month may be counted as~~
68 11 ~~one-twelfth of a year, but a day is to be counted as~~
68 12 ~~one three-hundred sixty-fifth of a year.~~

68 13 DIVISION XIX

68 14 UNEMPLOYMENT COMPENSATION SURCHARGE

68 15 Sec. 125. Section 96.7, subsection 12, paragraph
68 16 a, Code 2003, is amended to read as follows:

68 17 a. An employer other than a governmental entity or
68 18 a nonprofit organization, subject to this chapter,
68 19 shall pay an administrative contribution surcharge
68 20 equal in amount to one-tenth of one percent of federal
68 21 taxable wages, as defined in section 96.19, subsection
68 22 37, paragraph "b", subject to the surcharge formula to
68 23 be developed by the department under this paragraph.
68 24 The department shall develop a surcharge formula that
68 25 provides a target revenue level of no greater than six
68 26 million five hundred twenty-five thousand dollars
68 27 annually for calendar years 2003, 2004, and 2005 and a
68 28 target revenue level of no greater than three million
68 29 two hundred sixty-two thousand five hundred dollars
68 30 for calendar year 2006 and each subsequent calendar
68 31 year. The department shall reduce the administrative
68 32 contribution surcharge established for any calendar
68 33 year proportionate to any federal government funding
68 34 that provides an increased allocation of moneys for
68 35 workforce development offices, under the federal
68 36 employment services financing reform legislation. Any
68 37 administrative contribution surcharge revenue that is
68 38 collected in calendar year ~~2002~~ 2003, 2004, or 2005 in
68 39 excess of six million five hundred twenty-five
68 40 thousand dollars or in calendar year 2006 or a
68 41 subsequent calendar year in excess of three million
68 42 two hundred sixty-two thousand five hundred dollars
68 43 shall be deducted from the amount to be collected in
68 44 the subsequent calendar year 2003 before the
68 45 department establishes the administrative contribution
68 46 surcharge. The department shall recompute the amount

68 47 as a percentage of taxable wages, as defined in
68 48 section 96.19, subsection 37, and shall add the
68 49 percentage surcharge to the employer's contribution
68 50 rate determined under this section. The percentage
69 1 surcharge shall be capped at a maximum of seven
69 2 dollars per employee. The department shall adopt
69 3 rules prescribing the manner in which the surcharge
69 4 will be collected. Interest shall accrue on all
69 5 unpaid surcharges under this subsection at the same
69 6 rate as on regular contributions and shall be
69 7 collectible in the same manner. Interest accrued and
69 8 collected under this paragraph and interest earned and
69 9 credited to the fund under paragraph "b" shall be used
69 10 by the department only for the purposes set forth in
69 11 paragraph "c".

69 12 Sec. 126. Section 96.7, subsection 12, paragraph
69 13 d, Code 2003, is amended to read as follows:

69 14 d. This subsection is repealed July 1, ~~2003~~ 2006,
69 15 and the repeal is applicable to contribution rates for
69 16 calendar year ~~2004~~ 2007 and subsequent calendar years.

69 17 Sec. 127. EFFECTIVE DATE. This division of this
69 18 Act, concerning the unemployment compensation
69 19 surcharge, being deemed of immediate importance, takes
69 20 effect upon enactment.

69 21 DIVISION XX
69 22 ECONOMIC DEVELOPMENT

69 23 Sec. 128. NEW SECTION. 15E.18 CITIES, COUNTIES,
69 24 AND REGIONS == SITE PREPARATION FOR TARGETED ECONOMIC
69 25 DEVELOPMENT.

69 26 1. For purposes of this section, "region" means a
69 27 group of two or more contiguous counties that
69 28 establishes a single, focused economic development
69 29 effort.

69 30 2. A city, county, or region, subject to the
69 31 approval of the property owner, may designate an area
69 32 within the boundaries of the city, county, or region
69 33 for a specific type of targeted economic development.
69 34 The specific type of targeted economic development
69 35 shall be one of the following:

- 69 36 a. Manufacturing.
- 69 37 b. Light industrial.
- 69 38 c. Warehouse and distribution.
- 69 39 d. Office parks.
- 69 40 e. Business and commerce parks.
- 69 41 f. Research and development.

69 42 3. A city, county, or region that designates an
69 43 area for a specific type of targeted economic
69 44 development may apply to the department for purposes
69 45 of certifying the area as a preapproved development
69 46 site. The department shall develop criteria for the
69 47 certification process.

69 48 4. Prior to a specific project being developed, a
69 49 city, county, or region designating the area for
69 50 targeted economic development pursuant to this section
70 1 may apply for and obtain appropriate licenses,
70 2 permits, and approvals for the type of targeted
70 3 economic development project desired for the area.

70 4 Sec. 129. NEW SECTION. 15E.19 REGULATORY
70 5 ASSISTANCE.

70 6 1. The department of economic development shall
70 7 coordinate all regulatory assistance for the state of
70 8 Iowa. Each state agency with regulatory programs for
70 9 business shall maintain a coordinator within the
70 10 office of the director or the administrative division
70 11 of the state agency. Each coordinator shall do all of
70 12 the following:

- 70 13 a. Serve as the department of economic
70 14 development's primary contact for regulatory affairs.
- 70 15 b. Provide regulatory requirements to businesses
70 16 and represent the agency in the private sector.
- 70 17 c. Monitor permit applications and provide timely
70 18 permit status information to the department of
70 19 economic development.
- 70 20 d. Have the ability to require regulatory staff
70 21 participation in negotiations and discussions with
70 22 businesses.
- 70 23 e. Notify the department of economic development
70 24 regarding proposed rulemaking activities that impact a
70 25 regulatory program and any subsequent changes to a
70 26 regulatory program.

70 27 2. The department of economic development shall,

70 28 in consultation with the coordinators described in
70 29 this section, examine, and to the extent permissible,
70 30 assist in the implementation of methods, including the
70 31 possible establishment of an electronic database, to
70 32 streamline the process for issuing permits to
70 33 business.

70 34 3. By January 15 of each year, the department of
70 35 economic development shall submit a written report to
70 36 the general assembly regarding the provision of
70 37 regulatory assistance by state agencies, including the
70 38 department's efforts, and its recommendations and
70 39 proposed solutions, to streamline the process of
70 40 issuing permits to business.

70 41 Sec. 130. NEW SECTION. 15E.20 PERMIT APPROVAL
70 42 REQUIREMENTS.

70 43 A state agency which requires a permit, license, or
70 44 other regulatory approval shall issue or deny the
70 45 permit, license, or other regulatory approval within
70 46 ninety days of the receipt by the state agency of an
70 47 application. Unless such a state agency communicates
70 48 any concerns to or requests additional information
70 49 from an applicant within ten days of the receipt of
70 50 the application, the application shall be considered
71 1 complete. A permit, license, or other regulatory
71 2 approval not issued or denied within the ninety days
71 3 shall be deemed to be issued and valid.

71 4 DIVISION XXI

71 5 UTILITY SALES TAX EXEMPTION

71 6 Sec. 131. Section 422.45, subsection 61, paragraph
71 7 b, subparagraphs (2), (3), (4), and (5), Code 2003,
71 8 are amended to read as follows:

71 9 (2) If the date of the utility billing or meter
71 10 reading cycle of the residential customer for the
71 11 sale, furnishing, or service of metered gas and
71 12 electricity is on or after January 1, 2003, through
71 13 ~~December 31, 2003~~ June 30, 2008, or if the sale,
71 14 furnishing, or service of fuel for purposes of
71 15 residential energy and the delivery of the fuel occurs
71 16 on or after January 1, 2003, through ~~December 31, 2003~~
71 17 June 30, 2008, the rate of tax is three percent of the
71 18 gross receipts.

71 19 (3) If the date of the utility billing or meter
71 20 reading cycle of the residential customer for the
71 21 sale, furnishing, or service of metered gas and
71 22 electricity is on or after ~~January 1, 2004~~ July 1,
71 23 2008, through ~~December 31, 2004~~ June 30, 2009, or if
71 24 the sale, furnishing, or service of fuel for purposes
71 25 of residential energy and the delivery of the fuel
71 26 occurs on or after ~~January 1, 2004~~ July 1, 2008,
71 27 through ~~December 31, 2004~~ June 30, 2009, the rate of
71 28 tax is two percent of the gross receipts.

71 29 (4) If the date of the utility billing or meter
71 30 reading cycle of the residential customer for the
71 31 sale, furnishing, or service of metered gas and
71 32 electricity is on or after ~~January 1, 2005~~ July 1,
71 33 2009, through ~~December 31, 2005~~ June 30, 2010, or if
71 34 the sale, furnishing, or service of fuel for purposes
71 35 of residential energy and the delivery of the fuel
71 36 occurs on or after ~~January 1, 2005~~ July 1, 2009,
71 37 through ~~December 31, 2005~~ June 30, 2010, the rate of
71 38 tax is one percent of the gross receipts.

71 39 (5) If the date of the utility billing or meter
71 40 reading cycle of the residential customer for the
71 41 sale, furnishing, or service of metered gas and
71 42 electricity is on or after ~~January 1, 2006~~ July 1,
71 43 2010, or if the sale, furnishing, or service of fuel
71 44 for purposes of residential energy and the delivery of
71 45 the fuel occurs on or after ~~January 1, 2006~~ July 1,
71 46 2010, the rate of tax is zero percent of the gross
71 47 receipts.

71 48 DIVISION XXII

71 49 STREAMLINED SALES AND USE TAXES

71 50 SUBCHAPTER I

72 1 DEFINITIONS

72 2 Sec. 132. NEW SECTION. 423.1 DEFINITIONS.

72 3 As used in this chapter the following words, terms,
72 4 and phrases have the meanings ascribed to them by this
72 5 section, except where the context clearly indicates
72 6 that a different meaning is intended:

72 7 1. "Agent" means a person appointed by a seller to
72 8 represent the seller before the member states.

72 9 2. "Agreement" means the streamlined sales and use
72 10 tax agreement authorized by subchapter IV of this
72 11 chapter to provide a mechanism for establishing and
72 12 maintaining a cooperative, simplified system for the
72 13 application and administration of sales and use taxes.
72 14 3. "Agricultural production" includes the
72 15 production of flowering, ornamental, or vegetable
72 16 plants in commercial greenhouses or otherwise, and
72 17 production from aquaculture. "Agricultural products"
72 18 includes flowering, ornamental, or vegetable plants
72 19 and those products of aquaculture.
72 20 4. "Business" includes any activity engaged in by
72 21 any person or caused to be engaged in by the person
72 22 with the object of gain, benefit, or advantage, either
72 23 direct or indirect.
72 24 5. "Certificate of title" means a certificate of
72 25 title issued for a vehicle or for manufactured housing
72 26 under chapter 321.
72 27 6. "Certified automated system" means software
72 28 certified under the agreement to calculate the tax
72 29 imposed by each jurisdiction on a transaction,
72 30 determine the amount of tax to remit to the
72 31 appropriate state, and maintain a record of the
72 32 transaction.
72 33 7. "Certified service provider" means an agent
72 34 certified under the agreement to perform all of a
72 35 seller's sales or use tax functions, other than the
72 36 seller's obligation to remit tax on its own purchases.
72 37 8. "Computer" means an electronic device that
72 38 accepts information in digital or similar form and
72 39 manipulates the information for a result based on a
72 40 sequence of instructions.
72 41 9. "Computer software" means a set of coded
72 42 instructions designed to cause a computer or automatic
72 43 data processing equipment to perform a task.
72 44 10. "Delivered electronically" means delivered to
72 45 the purchaser by means other than tangible storage
72 46 media.
72 47 11. "Delivery charges" means charges assessed by a
72 48 seller of personal property or services for
72 49 preparation and delivery to a location designated by
72 50 the purchaser of personal property or services
73 1 including, but not limited to, transportation,
73 2 shipping, postage, handling, crating, and packing
73 3 charges.
73 4 12. "Department" means the department of revenue
73 5 and finance.
73 6 13. "Direct mail" means printed material delivered
73 7 or distributed by United States mail or other delivery
73 8 service to a mass audience or to addressees on a
73 9 mailing list provided by the purchaser or at the
73 10 direction of the purchaser when the cost of the items
73 11 is not billed directly to the recipients. "Direct
73 12 mail" includes tangible personal property supplied
73 13 directly or indirectly by the purchaser to the direct
73 14 mail seller for inclusion in the package containing
73 15 the printed material. "Direct mail" does not include
73 16 multiple items of printed material delivered to a
73 17 single address.
73 18 14. "Director" means the director of revenue and
73 19 finance.
73 20 15. "Electronic" means relating to technology
73 21 having electrical, digital, magnetic, wireless,
73 22 optical, electromagnetic, or similar capabilities.
73 23 16. "Farm deer" means the same as defined in
73 24 section 189A.2.
73 25 17. "Farm machinery and equipment" means machinery
73 26 and equipment used in agricultural production.
73 27 18. "First use of a service". A "first use of a
73 28 service" occurs, for the purposes of this chapter,
73 29 when a service is rendered, furnished, or performed in
73 30 Iowa or if rendered, furnished, or performed outside
73 31 of Iowa, when the product or result of the service is
73 32 used in Iowa.
73 33 19. "Goods, wares, or merchandise" means the same
73 34 as tangible personal property.
73 35 20. "Governing board" means the group comprised of
73 36 representatives of the member states of the agreement
73 37 which is created by the agreement to be responsible
73 38 for the agreement's administration and operation.
73 39 21. "Installed purchase price" is the amount

73 40 charged, valued in money whether paid in money or
73 41 otherwise, by a building contractor to convert
73 42 manufactured housing from tangible personal property
73 43 into realty. "Installed purchase price" includes, but
73 44 is not limited to, amounts charged for installing a
73 45 foundation and electrical and plumbing hookups.
73 46 "Installed purchase price" excludes any amount charged
73 47 for landscaping in connection with the conversion.
73 48 22. "Lease or rental".
73 49 a. "Lease or rental" means any transfer of
73 50 possession or control of tangible personal property
74 1 for a fixed or indeterminate term for consideration.
74 2 A "lease or rental" may include future options to
74 3 purchase or extend.
74 4 b. "Lease or rental" includes agreements covering
74 5 motor vehicles and trailers when the amount of
74 6 consideration may be increased or decreased by
74 7 reference to the amount realized upon sale or
74 8 disposition of the property as defined in 26 U.S.C. }
74 9 7701(h)(1).
74 10 c. "Lease or rental" does not include any of the
74 11 following:
74 12 (1) A transfer of possession or control of
74 13 property under a security agreement or deferred
74 14 payment plan that requires the transfer of title upon
74 15 completion of the required payments.
74 16 (2) A transfer of possession or control of
74 17 property under an agreement that requires the transfer
74 18 of title upon completion of required payments, and
74 19 payment of any option price does not exceed the
74 20 greater of one hundred dollars or one percent of the
74 21 total required payments.
74 22 (3) Providing tangible personal property along
74 23 with an operator for a fixed or indeterminate period
74 24 of time. A condition of this exclusion is that the
74 25 operator is necessary for the equipment to perform as
74 26 designed. For the purpose of this subparagraph, an
74 27 operator must do more than maintain, inspect, or set
74 28 up the tangible personal property.
74 29 d. This definition shall be used for sales and use
74 30 tax purposes regardless of whether a transaction is
74 31 characterized as a lease or rental under generally
74 32 accepted accounting principles, the Internal Revenue
74 33 Code, the Uniform Commercial Code, or other provisions
74 34 of federal, state, or local law.
74 35 23. "Livestock" includes but is not limited to an
74 36 animal classified as an ostrich, rhea, emu, bison, or
74 37 farm deer.
74 38 24. "Manufactured housing" means "manufactured
74 39 home" as defined in section 321.1.
74 40 25. "Member state" is any state which has signed
74 41 the agreement.
74 42 26. "Mobile home" means "manufactured or mobile
74 43 home" as defined in section 321.1.
74 44 27. "Model 1 seller" is a seller that has selected
74 45 a certified service provider as its agent to perform
74 46 all the seller's sales and use tax functions, other
74 47 than the seller's obligation to remit tax on its own
74 48 purchases.
74 49 28. "Model 2 seller" is a seller that has selected
74 50 a certified automated system to perform part of its
75 1 sales and use tax functions, but retains
75 2 responsibility for remitting the tax.
75 3 29. "Model 3 seller" is a seller that has sales in
75 4 at least five member states, has total annual sales
75 5 revenue of at least five hundred million dollars, has
75 6 a proprietary system that calculates the amount of tax
75 7 due each jurisdiction, and has entered into a
75 8 performance agreement with the member states that
75 9 establishes a tax performance standard for the seller.
75 10 As used in this definition, a "seller" includes an
75 11 affiliated group of sellers using the same proprietary
75 12 system.
75 13 30. "Nonresidential commercial operations" means
75 14 industrial, commercial, mining, or agricultural
75 15 operations, whether for profit or not, but does not
75 16 include apartment complexes or mobile home parks.
75 17 31. "Not registered under the agreement" means
75 18 lack of registration by a seller with the member
75 19 states under the central registration system
75 20 referenced in section 423.11, subsection 4.

75 21 32. "Person" means an individual, trust, estate,
75 22 fiduciary, partnership, limited liability company,
75 23 limited liability partnership, corporation, or any
75 24 other legal entity.

75 25 33. "Place of business" means any warehouse,
75 26 store, place, office, building, or structure where
75 27 goods, wares, or merchandise are offered for sale at
75 28 retail or where any taxable amusement is conducted, or
75 29 each office where gas, water, heat, communication, or
75 30 electric services are offered for sale at retail.
75 31 When a retailer or amusement operator sells
75 32 merchandise by means of vending machines or operates
75 33 music or amusement devices by coin-operated machines
75 34 at more than one location within the state, the
75 35 office, building, or place where the books, papers,
75 36 and records of the taxpayer are kept shall be deemed
75 37 to be the taxpayer's place of business.

75 38 34. "Prewritten computer software" includes
75 39 software designed and developed by the author or other
75 40 creator to the specifications of a specific purchaser
75 41 when it is sold to a person other than the purchaser.
75 42 The combining of two or more prewritten computer
75 43 software programs or prewritten portions of prewritten
75 44 programs does not cause the combination to be other
75 45 than prewritten computer software. "Prewritten
75 46 computer software" also means computer software,
75 47 including prewritten upgrades, which is not designed
75 48 and developed by the author or other creator to the
75 49 specifications of a specific purchaser.

75 50 When a person modifies or enhances computer
76 1 software of which the person is not the author or
76 2 creator, the person shall be deemed to be the author
76 3 or creator only of such person's modifications or
76 4 enhancements. Prewritten computer software or a
76 5 prewritten portion of the prewritten software that is
76 6 modified or enhanced to any degree, when such
76 7 modification or enhancement is designed and developed
76 8 to the specifications of a specific purchaser, remains
76 9 prewritten computer software. However, when there is
76 10 a reasonable, separately stated charge or an invoice
76 11 or other statement of the price given to the purchaser
76 12 for such modification or enhancement, such
76 13 modification or enhancement shall not constitute
76 14 prewritten computer software.

76 15 35. "Property purchased for resale in connection
76 16 with the performance of a service" means property
76 17 which is purchased for resale in connection with the
76 18 rendition, furnishing, or performance of a service by
76 19 a person who renders, furnishes, or performs the
76 20 service if all of the following occur:

76 21 a. The provider and user of the service intend
76 22 that a sale of the property will occur.

76 23 b. The property is transferred to the user of the
76 24 service in connection with the performance of the
76 25 service in a form or quantity capable of a fixed or
76 26 definite price value.

76 27 c. The sale is evidenced by a separate charge for
76 28 the identifiable piece of property.

76 29 36. "Purchase" means any transfer, exchange, or
76 30 barter, conditional or otherwise, in any manner or by
76 31 any means whatsoever, for a consideration.

76 32 37. "Purchase price" means the same as "sales
76 33 price" as defined in this section.

76 34 38. "Purchaser" is a person to whom a sale of
76 35 personal property is made or to whom a service is
76 36 furnished.

76 37 39. "Receive" and "receipt" mean any of the
76 38 following:

76 39 a. Taking possession of tangible personal
76 40 property.

76 41 b. Making first use of a service.

76 42 c. Taking possession or making first use of
76 43 digital goods, whichever comes first.

76 44 "Receive" and "receipt" do not include possession
76 45 by a shipping company on behalf of a purchaser.

76 46 40. "Registered under the agreement" means
76 47 registration by a seller under the central
76 48 registration system referenced in section 423.11,
76 49 subsection 4.

76 50 41. "Relief agency" means the state, any county,
77 1 city and county, city, or district thereof, or any

77 2 agency engaged in actual relief work.
77 3 42. "Retailer" means and includes every person
77 4 engaged in the business of selling tangible personal
77 5 property or taxable services at retail, or the
77 6 furnishing of gas, electricity, water, or
77 7 communication service, and tickets or admissions to
77 8 places of amusement and athletic events or operating
77 9 amusement devices or other forms of commercial
77 10 amusement from which revenues are derived. However,
77 11 when in the opinion of the director it is necessary
77 12 for the efficient administration of this chapter to
77 13 regard any salespersons, representatives, truckers,
77 14 peddlers, or canvassers as agents of the dealers,
77 15 distributors, supervisors, employers, or persons under
77 16 whom they operate or from whom they obtain tangible
77 17 personal property sold by them irrespective of whether
77 18 or not they are making sales on their own behalf or on
77 19 behalf of such dealers, distributors, supervisors,
77 20 employers, or persons, the director may so regard
77 21 them, and may regard such dealers, distributors,
77 22 supervisors, employers, or persons as retailers for
77 23 the purposes of this chapter. "Retailer" includes a
77 24 seller obligated to collect sales or use tax.
77 25 43. "Retailer maintaining a place of business in
77 26 this state" or any like term includes any retailer
77 27 having or maintaining within this state, directly or
77 28 by a subsidiary, an office, distribution house, sales
77 29 house, warehouse, or other place of business, or any
77 30 representative operating within this state under the
77 31 authority of the retailer or its subsidiary,
77 32 irrespective of whether that place of business or
77 33 representative is located here permanently or
77 34 temporarily, or whether the retailer or subsidiary is
77 35 admitted to do business within this state pursuant to
77 36 chapter 490.
77 37 44. "Retailers who are not model sellers" means
77 38 all retailers other than model 1, model 2, or model 3
77 39 sellers.
77 40 45. "Retail sale" or "sale at retail" means any
77 41 sale, lease, or rental for any purpose other than
77 42 resale, sublease, or subrent.
77 43 46. "Sales" or "sale" means any transfer,
77 44 exchange, or barter, conditional or otherwise, in any
77 45 manner or by any means whatsoever, for consideration.
77 46 47. "Sales price" applies to the measure subject
77 47 to sales tax.
77 48 a. "Sales price" means the total amount of
77 49 consideration, including cash, credit, property, and
77 50 services, for which personal property or services are
78 1 sold, leased, or rented, valued in money, whether
78 2 received in money or otherwise, without any deduction
78 3 for any of the following:
78 4 (1) The seller's cost of the property sold.
78 5 (2) The cost of materials used, labor or service
78 6 cost, interest, losses, all costs of transportation to
78 7 the seller, all taxes imposed on the seller, and any
78 8 other expenses of the seller.
78 9 (3) Charges by the seller for any services
78 10 necessary to complete the sale, other than delivery
78 11 and installation charges.
78 12 (4) Delivery charges.
78 13 (5) Installation charges.
78 14 (6) The value of exempt personal property given to
78 15 the purchaser where taxable and exempt personal
78 16 property have been bundled together and sold by the
78 17 seller as a single product or piece of merchandise.
78 18 (7) Credit for any trade-in authorized by section
78 19 423.3, subsection 58.
78 20 b. "Sales price" does not include:
78 21 (1) Discounts, including cash, term, or coupons
78 22 that are not reimbursed by a third party that are
78 23 allowed by a seller and taken by a purchaser on a
78 24 sale.
78 25 (2) Interest, financing, and carrying charges from
78 26 credit extended on the sale of personal property or
78 27 services, if the amount is separately stated on the
78 28 invoice, bill of sale, or similar document given to
78 29 the purchaser.
78 30 (3) Any taxes legally imposed directly on the
78 31 consumer that are separately stated on the invoice,
78 32 bill of sale, or similar document given to the

78 33 purchaser.
78 34 (4) The amounts received for charges included in
78 35 paragraph "a", subparagraphs (3) through (7), if they
78 36 are separately contracted for and separately stated on
78 37 the invoice, billing, or similar document given to the
78 38 purchaser.

78 39 48. "Sales tax" means the tax levied under
78 40 subchapter II of this chapter.

78 41 49. "Seller" means any person making sales,
78 42 leases, or rentals of personal property or services.

78 43 50. "Services" means all acts or services
78 44 rendered, furnished, or performed, other than services
78 45 used in processing of tangible personal property for
78 46 use in retail sales or services, for an employer, as
78 47 defined in section 422.4, subsection 3, for a valuable
78 48 consideration by any person engaged in any business or
78 49 occupation specifically enumerated in section 423.2.
78 50 The tax shall be due and collectible when the service
79 1 is rendered, furnished, or performed for the ultimate
79 2 user of the service.

79 3 51. "Services used in the processing of tangible
79 4 personal property" includes the reconditioning or
79 5 repairing of tangible personal property of the type
79 6 normally sold in the regular course of the retailer's
79 7 business and which is held for sale.

79 8 52. "State" means any state of the United States
79 9 and the District of Columbia.

79 10 53. "System" means the central electronic
79 11 registration system maintained by Iowa and other
79 12 states which are signatories to the agreement.

79 13 54. "Tangible personal property" means personal
79 14 property that can be seen, weighed, measured, felt, or
79 15 touched, or that is in any other manner perceptible to
79 16 the senses. "Tangible personal property" includes
79 17 electricity, water, gas, steam, and prewritten
79 18 computer software.

79 19 55. "Taxpayer" includes any person who is subject
79 20 to a tax imposed by this chapter, whether acting on
79 21 the person's own behalf or as a fiduciary.

79 22 56. "Trailer" shall mean every trailer, as is now
79 23 or may be hereafter so defined by chapter 321, which
79 24 is required to be registered or is subject only to the
79 25 issuance of a certificate of title under chapter 321.

79 26 57. "Use" means and includes the exercise by any
79 27 person of any right or power over tangible personal
79 28 property incident to the ownership of that property.
79 29 A retailer's or building contractor's sale of
79 30 manufactured housing for use in this state, whether in
79 31 the form of tangible personal property or of realty,
79 32 is a use of that property for the purposes of this
79 33 chapter.

79 34 58. "Use tax" means the tax levied under
79 35 subchapter III of this chapter for which the retailer
79 36 collects and remits tax to the department.

79 37 59. "User" means the immediate recipient of the
79 38 services who is entitled to exercise a right of power
79 39 over the product of such services.

79 40 60. "Value of services" means the price to the
79 41 user exclusive of any direct tax imposed by the
79 42 federal government or by this chapter.

79 43 61. "Vehicles subject to registration" means any
79 44 vehicle subject to registration pursuant to section
79 45 321.18.

79 46 SUBCHAPTER II

79 47 SALES TAX

79 48 Sec. 133. NEW SECTION. 423.2 TAX IMPOSED.

79 49 1. There is imposed a tax of five percent upon the
79 50 sales price of all sales of tangible personal
80 1 property, consisting of goods, wares, or merchandise,
80 2 sold at retail in the state to consumers or users
80 3 except as otherwise provided in this subchapter.

80 4 a. For the purposes of this subchapter, sales of
80 5 the following services are treated as if they were
80 6 sales of tangible personal property:

80 7 (1) Sales of engraving, photography, retouching,
80 8 printing, and binding services.

80 9 (2) Sales of vulcanizing, recapping, and
80 10 retreading services.

80 11 (3) Sales of prepaid telephone calling cards and
80 12 prepaid authorization numbers.

80 13 (4) Sales of optional service or warranty

80 14 contracts, except residential service contracts
80 15 regulated under chapter 523C, which provide for the
80 16 furnishing of labor and materials and require the
80 17 furnishing of any taxable service enumerated under
80 18 this section. The sales price is subject to tax even
80 19 if some of the services furnished are not enumerated
80 20 under this section. Additional sales, services, or
80 21 use taxes shall not be levied on services, parts, or
80 22 labor provided under optional service or warranty
80 23 contracts which are subject to tax under this
80 24 subsection.

80 25 If the optional service or warranty contract is a
80 26 computer software maintenance or support service
80 27 contract and there is no separately stated fee for the
80 28 taxable personal property or for the nontaxable
80 29 service, the tax imposed by this subsection shall be
80 30 imposed on fifty percent of the sales price from the
80 31 sale of such contract. If the contract provides for
80 32 technical support services only, no tax shall be
80 33 imposed under this subsection. The provisions of this
80 34 subparagraph (4) also apply to the use tax.

80 35 (5) Renting of rooms, apartments, or sleeping
80 36 quarters in a hotel, motel, inn, public lodging house,
80 37 rooming house, mobile home which is tangible personal
80 38 property, or tourist court, or in any place where
80 39 sleeping accommodations are furnished to transient
80 40 guests for rent, whether with or without meals.
80 41 "Renting" and "rent" include any kind of direct or
80 42 indirect charge for such rooms, apartments, or
80 43 sleeping quarters, or their use. However, the tax
80 44 does not apply to the sales price from the renting of
80 45 a room, apartment, or sleeping quarters while rented
80 46 by the same person for a period of more than thirty=
80 47 one consecutive days.

80 48 b. Sales of building materials, supplies, and
80 49 equipment to owners, contractors, subcontractors, or
80 50 builders for the erection of buildings or the
81 1 alteration, repair, or improvement of real property
81 2 are retail sales of tangible personal property in
81 3 whatever quantity sold. Where the owner, contractor,
81 4 subcontractor, or builder is also a retailer holding a
81 5 retail sales tax permit and transacting retail sales
81 6 of building materials, supplies, and equipment, the
81 7 person shall purchase such items of tangible personal
81 8 property without liability for the tax if such
81 9 property will be subject to the tax at the time of
81 10 resale or at the time it is withdrawn from inventory
81 11 for construction purposes. The sales tax shall be due
81 12 in the reporting period when the materials, supplies,
81 13 and equipment are withdrawn from inventory for
81 14 construction purposes or when sold at retail. The tax
81 15 shall not be due when materials are withdrawn from
81 16 inventory for use in construction outside of Iowa and
81 17 the tax shall not apply to tangible personal property
81 18 purchased and consumed by the manufacturer as building
81 19 materials in the performance by the manufacturer or
81 20 its subcontractor of construction outside of Iowa.
81 21 The sale of carpeting is not a sale of building
81 22 materials. The sale of carpeting to owners,
81 23 contractors, subcontractors, or builders shall be
81 24 treated as the sale of ordinary tangible personal
81 25 property and subject to the tax imposed under this
81 26 subsection and the use tax.

81 27 c. The use within this state of tangible personal
81 28 property by the manufacturer thereof, as building
81 29 materials, supplies, or equipment, in the performance
81 30 of construction contracts in Iowa, shall, for the
81 31 purpose of this subchapter, be construed as a sale at
81 32 retail of tangible personal property by the
81 33 manufacturer who shall be deemed to be the consumer of
81 34 such tangible personal property. The tax shall be
81 35 computed upon the cost to the manufacturer of the
81 36 fabrication or production of the tangible personal
81 37 property.

81 38 2. A tax of five percent is imposed upon the sales
81 39 price of the sale or furnishing of gas, electricity,
81 40 water, heat, pay television service, and communication
81 41 service, including the sales price from such sales by
81 42 any municipal corporation or joint water utility
81 43 furnishing gas, electricity, water, heat, pay
81 44 television service, and communication service to the

81 45 public in its proprietary capacity, except as
81 46 otherwise provided in this subchapter, when sold at
81 47 retail in the state to consumers or users.

81 48 3. A tax of five percent is imposed upon the sales
81 49 price of all sales of tickets or admissions to places
81 50 of amusement, fairs, and athletic events except those
82 1 of elementary and secondary educational institutions.
82 2 A tax of five percent is imposed on the sales price of
82 3 an entry fee or like charge imposed solely for the
82 4 privilege of participating in an activity at a place
82 5 of amusement, fair, or athletic event unless the sales
82 6 price of tickets or admissions charges for observing
82 7 the same activity are taxable under this subchapter.
82 8 A tax of five percent is imposed upon that part of
82 9 private club membership fees or charges paid for the
82 10 privilege of participating in any athletic sports
82 11 provided club members.

82 12 4. A tax of five percent is imposed upon the sales
82 13 price derived from the operation of all forms of
82 14 amusement devices and games of skill, games of chance,
82 15 raffles, and bingo games as defined in chapter 99B,
82 16 operated or conducted within the state, the tax to be
82 17 collected from the operator in the same manner as for
82 18 the collection of taxes upon the sales price of
82 19 tickets or admission as provided in this section.
82 20 Nothing in this subsection shall legalize any games of
82 21 skill or chance or slot-operated devices which are now
82 22 prohibited by law.

82 23 The tax imposed under this subsection covers the
82 24 total amount from the operation of games of skill,
82 25 games of chance, raffles, and bingo games as defined
82 26 in chapter 99B, and musical devices, weighing
82 27 machines, shooting galleries, billiard and pool
82 28 tables, bowling alleys, pinball machines, slot=
82 29 operated devices selling merchandise not subject to
82 30 the general sales taxes and on the total amount from
82 31 devices or systems where prizes are in any manner
82 32 awarded to patrons and upon the receipts from fees
82 33 charged for participation in any game or other form of
82 34 amusement, and generally upon the sales price from any
82 35 source of amusement operated for profit, not specified
82 36 in this section, and upon the sales price from which
82 37 tax is not collected for tickets or admission, but tax
82 38 shall not be imposed upon any activity exempt from
82 39 sales tax under section 423.3, subsection 78. Every
82 40 person receiving any sales price from the sources
82 41 described in this section is subject to all provisions
82 42 of this subchapter relating to retail sales tax and
82 43 other provisions of this chapter as applicable.

82 44 5. There is imposed a tax of five percent upon the
82 45 sales price from the furnishing of services as defined
82 46 in section 423.1.

82 47 6. The sales price of any of the following
82 48 enumerated services is subject to the tax imposed by
82 49 subsection 5: alteration and garment repair; armored
82 50 car; vehicle repair; battery, tire, and allied;
83 1 investment counseling; service charges of all
83 2 financial institutions; barber and beauty; boat
83 3 repair; vehicle wash and wax; campgrounds; carpentry;
83 4 roof, shingle, and glass repair; dance schools and
83 5 dance studios; dating services; dry cleaning,
83 6 pressing, dyeing, and laundering; electrical and
83 7 electronic repair and installation; excavating and
83 8 grading; farm implement repair of all kinds; flying
83 9 service; furniture, rug, carpet, and upholstery repair
83 10 and cleaning; fur storage and repair; golf and country
83 11 clubs and all commercial recreation; gun and camera
83 12 repair; house and building moving; household
83 13 appliance, television, and radio repair; janitorial
83 14 and building maintenance or cleaning; jewelry and
83 15 watch repair; lawn care, landscaping, and tree
83 16 trimming and removal; limousine service, including
83 17 driver; machine operator; machine repair of all kinds;
83 18 motor repair; motorcycle, scooter, and bicycle repair;
83 19 oilers and lubricators; office and business machine
83 20 repair; painting, papering, and interior decorating;
83 21 parking facilities; pay television; pet grooming; pipe
83 22 fitting and plumbing; wood preparation; executive
83 23 search agencies; private employment agencies,
83 24 excluding services for placing a person in employment
83 25 where the principal place of employment of that person

83 26 is to be located outside of the state; reflexology;
83 27 security and detective services; sewage services for
83 28 nonresidential commercial operations; sewing and
83 29 stitching; shoe repair and shoeshine; sign
83 30 construction and installation; storage of household
83 31 goods, mini-storage, and warehousing of raw
83 32 agricultural products; swimming pool cleaning and
83 33 maintenance; tanning beds or salons; taxidermy
83 34 services; telephone answering service; test
83 35 laboratories, including mobile testing laboratories
83 36 and field testing by testing laboratories, and
83 37 excluding tests on humans or animals; termite, bug,
83 38 roach, and pest eradicators; tin and sheet metal
83 39 repair; Turkish baths, massage, and reducing salons,
83 40 excluding services provided by massage therapists
83 41 licensed under chapter 152C; water conditioning and
83 42 softening; weighing; welding; well drilling; wrapping,
83 43 packing, and packaging of merchandise other than
83 44 processed meat, fish, fowl, and vegetables; wrecking
83 45 service; wrecker and towing.

83 46 For the purposes of this subsection, the sales
83 47 price of a lease or rental includes rents, royalties,
83 48 and copyright and license fees. For the purposes of
83 49 this subsection, "financial institutions" means all
83 50 national banks, federally chartered savings and loan
84 1 associations, federally chartered savings banks,
84 2 federally chartered credit unions, banks organized
84 3 under chapter 524, savings and loan associations and
84 4 savings banks organized under chapter 534, and credit
84 5 unions organized under chapter 533.

84 6 7. a. A tax of five percent is imposed upon the
84 7 sales price from the sales, furnishing, or service of
84 8 solid waste collection and disposal service.

84 9 For purposes of this subsection, "solid waste"
84 10 means garbage, refuse, sludge from a water supply
84 11 treatment plant or air contaminant treatment facility,
84 12 and other discarded waste materials and sludges, in
84 13 solid, semisolid, liquid, or contained gaseous form,
84 14 resulting from nonresidential commercial operations,
84 15 but does not include auto hulks; street sweepings;
84 16 ash; construction debris; mining waste; trees; tires;
84 17 lead acid batteries; used oil; hazardous waste; animal
84 18 waste used as fertilizer; earthen fill, boulders, or
84 19 rock; foundry sand used for daily cover at a sanitary
84 20 landfill; sewage sludge; solid or dissolved material
84 21 in domestic sewage or other common pollutants in water
84 22 resources, such as silt, dissolved or suspended solids
84 23 in industrial waste water effluents or discharges
84 24 which are point sources subject to permits under
84 25 section 402 of the federal Water Pollution Control
84 26 Act, or dissolved materials in irrigation return
84 27 flows; or source, special nuclear, or by-product
84 28 material defined by the federal Atomic Energy Act of
84 29 1954.

84 30 A recycling facility that separates or processes
84 31 recyclable materials and that reduces the volume of
84 32 the waste by at least eighty-five percent is exempt
84 33 from the tax imposed by this subsection if the waste
84 34 exempted is collected and disposed of separately from
84 35 other solid waste.

84 36 b. A person who transports solid waste generated
84 37 by that person or another person without compensation
84 38 shall pay the tax imposed by this subsection at the
84 39 collection or disposal facility based on the disposal
84 40 charge or tipping fee. However, the costs of a
84 41 service or portion of a service to collect and manage
84 42 recyclable materials separated from solid waste by the
84 43 waste generator are exempt from the tax imposed by
84 44 this subsection.

84 45 8. a. A tax of five percent is imposed upon the
84 46 sales price from sales of bundled services contracts.
84 47 For purposes of this subsection, a "bundled services
84 48 contract" means an agreement providing for a
84 49 retailer's performance of services, one or more of
84 50 which is a taxable service enumerated in this section
85 1 and one or more of which is not, in return for a
85 2 consumer's or user's single payment for the
85 3 performance of the services, with no separate
85 4 statement to the consumer or user of what portion of
85 5 that payment is attributable to any one service which
85 6 is a part of the contract.

85 7 b. For purposes of the administration of the tax
85 8 on bundled services contracts, the director may enter
85 9 into agreements of limited duration with individual
85 10 retailers, groups of retailers, or organizations
85 11 representing retailers of bundled services contracts.
85 12 Such an agreement shall impose the tax rate only upon
85 13 that portion of the sales price from a bundled
85 14 services contract which is attributable to taxable
85 15 services provided under the contract.

85 16 9. A tax of five percent is imposed upon the sales
85 17 price from any mobile telecommunications service which
85 18 this state is allowed to tax by the provisions of the
85 19 federal Mobile Telecommunications Sourcing Act, Pub.
85 20 L. No. 106=252, 4 U.S.C. } 116 et seq. For purposes
85 21 of this subsection, taxes on mobile telecommunications
85 22 service, as defined under the federal Mobile
85 23 Telecommunications Sourcing Act that are deemed to be
85 24 provided by the customer's home service provider,
85 25 shall be paid to the taxing jurisdiction whose
85 26 territorial limits encompass the customer's place of
85 27 primary use, regardless of where the mobile
85 28 telecommunications service originates, terminates, or
85 29 passes through and shall in all other respects be
85 30 taxed in conformity with the federal Mobile
85 31 Telecommunications Sourcing Act. All other provisions
85 32 of the federal Mobile Telecommunications Sourcing Act
85 33 are adopted by the state of Iowa and incorporated into
85 34 this subsection by reference. With respect to mobile
85 35 telecommunications service under the federal Mobile
85 36 Telecommunications Sourcing Act, the director shall,
85 37 if requested, enter into agreements consistent with
85 38 the provisions of the federal Act.

85 39 10. All revenues arising under the operation of
85 40 the provisions of this section shall be deposited into
85 41 the general fund of the state.

85 42 Sec. 134. NEW SECTION. 423.3 EXEMPTIONS.

85 43 There is exempted from the provisions of this
85 44 subchapter and from the computation of the amount of
85 45 tax imposed by it the following:

85 46 1. The sales price from sales of tangible personal
85 47 property and services furnished which this state is
85 48 prohibited from taxing under the Constitution or laws
85 49 of the United States or under the Constitution of this
85 50 state.

86 1 2. The sales price of sales for resale of tangible
86 2 personal property or taxable services, or for resale
86 3 of tangible personal property in connection with the
86 4 furnishing of taxable services.

86 5 3. The sales price of agricultural breeding
86 6 livestock and domesticated fowl.

86 7 4. The sales price of commercial fertilizer.

86 8 5. The sales price of agricultural limestone,
86 9 herbicide, pesticide, insecticide, including
86 10 adjuvants, surfactants, and other products directly
86 11 related to the application enhancement of those
86 12 products, food, medication, or agricultural drain
86 13 tile, including installation of agricultural drain
86 14 tile, any of which are to be used in disease control,
86 15 weed control, insect control, or health promotion of
86 16 plants or livestock produced as part of agricultural
86 17 production for market.

86 18 6. The sales price of tangible personal property
86 19 which will be consumed as fuel in creating heat,
86 20 power, or steam for grain drying, or for providing
86 21 heat or cooling for livestock buildings or for
86 22 greenhouses or buildings or parts of buildings
86 23 dedicated to the production of flowering, ornamental,
86 24 or vegetable plants intended for sale in the ordinary
86 25 course of business, or for use in cultivation of
86 26 agricultural products by aquaculture, or in implements
86 27 of husbandry engaged in agricultural production.

86 28 7. The sales price of services furnished by
86 29 specialized flying implements of husbandry used for
86 30 agricultural aerial spraying.

86 31 8. The sales price exclusive of services of farm
86 32 machinery and equipment, including auxiliary
86 33 attachments which improve the performance, safety,
86 34 operation, or efficiency of the machinery and
86 35 equipment and replacement parts, if the following
86 36 conditions are met:

86 37 a. The farm machinery and equipment shall be

86 38 directly and primarily used in production of
86 39 agricultural products.

86 40 b. The farm machinery and equipment shall
86 41 constitute self-propelled implements or implements
86 42 customarily drawn or attached to self-propelled
86 43 implements or the farm machinery or equipment is a
86 44 grain dryer.

86 45 c. The replacement part is essential to any repair
86 46 or reconstruction necessary to the farm machinery's or
86 47 equipment's exempt use in the production of
86 48 agricultural products.

86 49 Vehicles subject to registration, as defined in
86 50 section 423.1, or replacement parts for such vehicles,
87 1 are not eligible for this exemption.

87 2 9. The sales price of wood chips, sawdust, hay,
87 3 straw, paper, or other materials used for bedding in
87 4 the production of agricultural livestock or fowl.

87 5 10. The sales price of gas, electricity, water, or
87 6 heat to be used in implements of husbandry engaged in
87 7 agricultural production.

87 8 11. The sales price exclusive of services of farm
87 9 machinery and equipment, including auxiliary
87 10 attachments which improve the performance, safety,
87 11 operation, or efficiency of the machinery and
87 12 equipment and replacement parts, if all of the
87 13 following conditions are met:

87 14 a. The implement, machinery, or equipment is
87 15 directly and primarily used in livestock or dairy
87 16 production, aquaculture production, or the production
87 17 of flowering, ornamental, or vegetable plants.

87 18 b. The implement is not a self-propelled implement
87 19 or implement customarily drawn or attached to self=
87 20 propelled implements.

87 21 c. The replacement part is essential to any repair
87 22 or reconstruction necessary to the farm machinery's or
87 23 equipment's exempt use in livestock or dairy
87 24 production, aquaculture production, or the production
87 25 of flowering, ornamental, or vegetable plants.

87 26 12. The sales price, exclusive of services, from
87 27 sales of irrigation equipment used in farming
87 28 operations.

87 29 13. The sales price from the sale or rental of
87 30 irrigation equipment, whether installed above or below
87 31 ground, to a contractor or farmer if the equipment
87 32 will be primarily used in agricultural operations.

87 33 14. The sales price from the sales of horses,
87 34 commonly known as draft horses, when purchased for use
87 35 and so used as draft horses.

87 36 15. The sales price from the sale of property
87 37 which is a container, label, carton, pallet, packing
87 38 case, wrapping, baling wire, twine, bag, bottle,
87 39 shipping case, or other similar article or receptacle
87 40 sold for use in agricultural, livestock, or dairy
87 41 production.

87 42 16. The sales price from the sale of feed and feed
87 43 supplements and additives when used for consumption by
87 44 farm deer or bison.

87 45 17. The sales price of all goods, wares, or
87 46 merchandise, or services, used for educational
87 47 purposes sold to any private nonprofit educational
87 48 institution in this state. For the purpose of this
87 49 subsection, "educational institution" means an
87 50 institution which primarily functions as a school,
88 1 college, or university with students, faculty, and an
88 2 established curriculum. The faculty of an educational
88 3 institution must be associated with the institution
88 4 and the curriculum must include basic courses which
88 5 are offered every year. "Educational institution"
88 6 includes an institution primarily functioning as a
88 7 library.

88 8 18. The sales price of tangible personal property
88 9 sold, or of services furnished, to the following
88 10 nonprofit corporations:

88 11 a. Residential care facilities and intermediate
88 12 care facilities for persons with mental retardation
88 13 and residential care facilities for persons with
88 14 mental illness licensed by the department of
88 15 inspections and appeals under chapter 135C.

88 16 b. Residential facilities licensed by the
88 17 department of human services pursuant to chapter 237,
88 18 other than those maintained by individuals as defined

88 19 in section 237.1, subsection 7.
88 20 c. Rehabilitation facilities that provide
88 21 accredited rehabilitation services to persons with
88 22 disabilities which are accredited by the commission on
88 23 accreditation of rehabilitation facilities or the
88 24 accreditation council for services for persons with
88 25 mental retardation and other persons with
88 26 developmental disabilities and adult day care services
88 27 approved for reimbursement by the state department of
88 28 human services.
88 29 d. Community mental health centers accredited by
88 30 the department of human services pursuant to chapter
88 31 225C.
88 32 e. Community health centers as defined in 42
88 33 U.S.C. } 254(c) and migrant health centers as defined
88 34 in 42 U.S.C. } 254(b).
88 35 19. The sales price of tangible personal property
88 36 sold to a nonprofit organization which was organized
88 37 for the purpose of lending the tangible personal
88 38 property to the general public for use by them for
88 39 nonprofit purposes.
88 40 20. The sales price of tangible personal property
88 41 sold, or of services furnished, to nonprofit legal aid
88 42 organizations.
88 43 21. The sales price of goods, wares, or
88 44 merchandise, or of services, used for educational,
88 45 scientific, historic preservation, or aesthetic
88 46 purpose sold to a nonprofit private museum.
88 47 22. The sales price from sales of goods, wares, or
88 48 merchandise, or from services furnished, to a
88 49 nonprofit private art center to be used in the
88 50 operation of the art center.
89 1 23. The sales price of tangible personal property
89 2 sold, or of services furnished, by a fair society
89 3 organized under chapter 174.
89 4 24. The sales price from services furnished by the
89 5 notification center established pursuant to section
89 6 480.3, and the vendor selected pursuant to section
89 7 480.3 to provide the notification service.
89 8 25. The sales price of food and beverages sold for
89 9 human consumption by a nonprofit organization which
89 10 principally promotes a food or beverage product for
89 11 human consumption produced, grown, or raised in this
89 12 state and whose income is exempt from federal taxation
89 13 under section 501(c) of the Internal Revenue Code.
89 14 26. The sales price of tangible personal property
89 15 sold, or of services furnished, to a statewide
89 16 nonprofit organ procurement organization, as defined
89 17 in section 142C.2.
89 18 27. The sales price of tangible personal property
89 19 sold, or of services furnished, to a nonprofit
89 20 hospital licensed pursuant to chapter 135B to be used
89 21 in the operation of the hospital.
89 22 28. The sales price of tangible personal property
89 23 sold, or of services furnished, to a freestanding
89 24 nonprofit hospice facility which operates a hospice
89 25 program as defined in 42 C.F.R., ch. IV, } 418.3,
89 26 which property or services are to be used in the
89 27 hospice program.
89 28 29. The sales price of all goods, wares, or
89 29 merchandise sold, or of services furnished, which are
89 30 used in the fulfillment of a written construction
89 31 contract with a nonprofit hospital licensed pursuant
89 32 to chapter 135B if all of the following apply:
89 33 a. The sales and delivery of the goods, wares, or
89 34 merchandise, or the services furnished occurred
89 35 between July 1, 1998, and December 31, 2001.
89 36 b. The written construction contract was entered
89 37 into prior to December 31, 1999, or bonds to fund the
89 38 construction were issued prior to December 31, 1999.
89 39 c. The sales or services were purchased by a
89 40 contractor as the agent for the hospital or were
89 41 purchased directly by the hospital.
89 42 30. The sales price of livestock ear tags sold by
89 43 a nonprofit organization whose income is exempt from
89 44 federal taxation under section 501(c)(6) of the
89 45 Internal Revenue Code where the proceeds are used in
89 46 bovine research programs selected or approved by such
89 47 organization.
89 48 31. The sales price of goods, wares, or
89 49 merchandise sold to and of services furnished, and

89 50 used for public purposes sold to a tax-certifying or
90 1 tax-levying body of the state or a governmental
90 2 subdivision of the state, including regional transit
90 3 systems, as defined in section 324A.1, the state board
90 4 of regents, department of human services, state
90 5 department of transportation, any municipally owned
90 6 solid waste facility which sells all or part of its
90 7 processed waste as fuel to a municipally owned public
90 8 utility, and all divisions, boards, commissions,
90 9 agencies, or instrumentalities of state, federal,
90 10 county, or municipal government which have no earnings
90 11 going to the benefit of an equity investor or
90 12 stockholder, except any of the following:
90 13 a. The sales price of goods, wares, or merchandise
90 14 sold to, or of services furnished, and used by or in
90 15 connection with the operation of any municipally owned
90 16 public utility engaged in selling gas, electricity,
90 17 heat, or pay television service to the general public.
90 18 b. The sales price of furnishing of sewage
90 19 services to a county or municipality on behalf of
90 20 nonresidential commercial operations.
90 21 c. The furnishing of solid waste collection and
90 22 disposal service to a county or municipality on behalf
90 23 of nonresidential commercial operations located within
90 24 the county or municipality.
90 25 The exemption provided by this subsection shall
90 26 also apply to all such sales of goods, wares, or
90 27 merchandise or of services furnished and subject to
90 28 use tax.
90 29 32. The sales price of tangible personal property
90 30 sold, or of services furnished, by a county or city.
90 31 This exemption does not apply to any of the following:
90 32 a. The tax specifically imposed under section
90 33 423.2 on the sales price from sales or furnishing of
90 34 gas, electricity, water, heat, pay television service,
90 35 or communication service to the public by a municipal
90 36 corporation in its proprietary capacity.
90 37 b. The sale or furnishing of solid waste
90 38 collection and disposal service to nonresidential
90 39 commercial operations.
90 40 c. The sale or furnishing of sewage service for
90 41 nonresidential commercial operations.
90 42 d. Fees paid to cities and counties for the
90 43 privilege of participating in any athletic sports.
90 44 33. The sales price of mementos and other items
90 45 relating to Iowa history and historic sites, the
90 46 general assembly, and the state capitol, sold by the
90 47 legislative service bureau and its legislative
90 48 information office on the premises of property under
90 49 the control of the legislative council, at the state
90 50 capitol, and on other state property.
91 1 34. The sales price from sales of mementos and
91 2 other items relating to Iowa history and historic
91 3 sites by the department of cultural affairs on the
91 4 premises of property under its control and at the
91 5 state capitol.
91 6 35. The sales price from sales or services
91 7 furnished by the state fair organized under chapter
91 8 173.
91 9 36. The sales price from sales of tangible
91 10 personal property or of the sale or furnishing of
91 11 electrical energy, natural or artificial gas, or
91 12 communication service to another state or political
91 13 subdivision of another state if the other state
91 14 provides a similar reciprocal exemption for this state
91 15 and political subdivision of this state.
91 16 37. The sales price of services on or connected
91 17 with new construction, reconstruction, alteration,
91 18 expansion, remodeling, or the services of a general
91 19 building contractor, architect, or engineer.
91 20 38. The sales price from the sale of building
91 21 materials, supplies, or equipment sold to rural water
91 22 districts organized under chapter 504A as provided in
91 23 chapter 357A and used for the construction of
91 24 facilities of a rural water district.
91 25 39. The sales price from "casual sales".
91 26 "Casual sales" means:
91 27 a. Sales of tangible personal property, or the
91 28 furnishing of services, of a nonrecurring nature, by
91 29 the owner, if the seller, at the time of the sale, is
91 30 not engaged for profit in the business of selling

91 31 tangible personal property or services taxed under
91 32 section 423.2.

91 33 b. The sale of all or substantially all of the
91 34 tangible personal property or services held or used by
91 35 a seller in the course of the seller's trade or
91 36 business for which the seller is required to hold a
91 37 sales tax permit when the seller sells or otherwise
91 38 transfers the trade or business to another person who
91 39 shall engage in a similar trade or business.

91 40 40. The sales price from the sale of automotive
91 41 fluids to a retailer to be used either in providing a
91 42 service which includes the installation or application
91 43 of the fluids in or on a motor vehicle, which service
91 44 is subject to section 423.2, subsection 6, or to be
91 45 installed in or applied to a motor vehicle which the
91 46 retailer intends to sell, which sale is subject to
91 47 section 423.26. For purposes of this subsection,
91 48 automotive fluids are all those which are refined,
91 49 manufactured, or otherwise processed and packaged for
91 50 sale prior to their installation in or application to
92 1 a motor vehicle. They include but are not limited to
92 2 motor oil and other lubricants, hydraulic fluids,
92 3 brake fluid, transmission fluid, sealants,
92 4 undercoatings, antifreeze, and gasoline additives.

92 5 41. The sales price from the rental of motion
92 6 picture films, video and audio tapes, video and audio
92 7 discs, records, photos, copy, scripts, or other media
92 8 used for the purpose of transmitting that which can be
92 9 seen, heard, or read, if either of the following
92 10 conditions are met:

92 11 a. The lessee imposes a charge for the viewing of
92 12 such media and the charge for the viewing is subject
92 13 to taxation under this subchapter or is subject to use
92 14 tax.

92 15 b. The lessee broadcasts the contents of such
92 16 media for public viewing or listening.

92 17 42. The sales price from the sale of tangible
92 18 personal property consisting of advertising material
92 19 including paper to a person in Iowa if that person or
92 20 that person's agent will, subsequent to the sale, send
92 21 that advertising material outside this state and the
92 22 material is subsequently used solely outside of Iowa.
92 23 For the purpose of this subsection, "advertising
92 24 material" means any brochure, catalog, leaflet, flyer,
92 25 order form, return envelope, or similar item used to
92 26 promote sales of property or services.

92 27 43. The sales price from the sale of property or
92 28 of services performed on property which the retailer
92 29 transfers to a carrier for shipment to a point outside
92 30 of Iowa, places in the United States mail or parcel
92 31 post directed to a point outside of Iowa, or
92 32 transports to a point outside of Iowa by means of the
92 33 retailer's own vehicles, and which is not thereafter
92 34 returned to a point within Iowa, except solely in the
92 35 course of interstate commerce or transportation. This
92 36 exemption shall not apply if the purchaser, consumer,
92 37 or their agent, other than a carrier, takes physical
92 38 possession of the property in Iowa.

92 39 44. The sales price from the sale of property
92 40 which is a container, label, carton, pallet, packing
92 41 case, wrapping paper, twine, bag, bottle, shipping
92 42 case, or other similar article or receptacle sold to
92 43 retailers or manufacturers for the purpose of
92 44 packaging or facilitating the transportation of
92 45 tangible personal property sold at retail or
92 46 transferred in association with the maintenance or
92 47 repair of fabric or clothing.

92 48 45. The sales price from sales or rentals to a
92 49 printer or publisher of the following: acetate; anti=
92 50 halation backing; antistatic spray; back lining; base
93 1 material used as a carrier for light sensitive
93 2 emulsions; blankets; blow-ups; bronze powder; carbon
93 3 tissue; codas; color filters; color separations;
93 4 contacts; continuous tone separations; creative art;
93 5 custom dies and die cutting materials; dampener
93 6 sleeves; dampening solution; design and styling; diazo
93 7 coating; dot etching; dot etching solutions; drawings;
93 8 drawsheets; driers; duplicate films or prints;
93 9 electronically digitized images; electrotypes; end
93 10 product of image modulation; engravings; etch
93 11 solutions; film; finished art or final art; fix;

93 12 fixative spray; flats; flying pasters; foils;
93 13 goldenrod paper; gum; halftones; illustrations; ink;
93 14 ink paste; keylines; lacquer; lasering images;
93 15 layouts; lettering; line negatives and positives;
93 16 linotypes; lithographic offset plates; magnesium and
93 17 zinc etchings; masking paper; masks; masters; mats;
93 18 mat service; metal toner; models and modeling; mylar;
93 19 negatives; nonoffset spray; opaque film process paper;
93 20 opaquing; padding compound; paper stock; photographic
93 21 materials: acids, plastic film, desensitizer
93 22 emulsion, exposure chemicals, fix, developers, and
93 23 paper; photography, day rate; photopolymer coating;
93 24 photographs; photostats; photo=display tape;
93 25 phototypesetter materials; ph=indicator sticks;
93 26 positives; press pack; printing cylinders; printing
93 27 plates, all types; process lettering; proof paper;
93 28 proofs and proof processes, all types; pumice powder;
93 29 purchased author alterations; purchased composition;
93 30 purchased phototypesetting; purchased stripping and
93 31 pasteups; red litho tape; reducers; roller covering;
93 32 screen tints; sketches; stepped plates; stereotypes;
93 33 strip types; substrate; tints; tissue overlays;
93 34 toners; transparencies; tympan; typesetting;
93 35 typography; varnishes; veloxes; wood mounts; and any
93 36 other items used in a like capacity to any of the
93 37 above enumerated items by the printer or publisher to
93 38 complete a finished product for sale at retail.
93 39 Expendable tools and supplies which are not enumerated
93 40 in this subsection are excluded from the exemption.
93 41 "Printer" means that portion of a person's business
93 42 engaged in printing that completes a finished product
93 43 for ultimate sale at retail or means that portion of a
93 44 person's business used to complete a finished printed
93 45 packaging material used to package a product for
93 46 ultimate sale at retail. "Printer" does not mean an
93 47 in=house printer who prints or copyrights its own
93 48 materials.

93 49 46. a. The sales price from the sale or rental of
93 50 computers, machinery, and equipment, including
94 1 replacement parts, and materials used to construct or
94 2 self=construct computers, machinery, and equipment if
94 3 such items are any of the following:

94 4 (1) Directly and primarily used in processing by a
94 5 manufacturer.

94 6 (2) Directly and primarily used to maintain the
94 7 integrity of the product or to maintain unique
94 8 environmental conditions required for either the
94 9 product or the computers, machinery, and equipment
94 10 used in processing by a manufacturer, including test
94 11 equipment used to control quality and specifications
94 12 of the product.

94 13 (3) Directly and primarily used in research and
94 14 development of new products or processes of
94 15 processing.

94 16 (4) Computers used in processing or storage of
94 17 data or information by an insurance company, financial
94 18 institution, or commercial enterprise.

94 19 (5) Directly and primarily used in recycling or
94 20 reprocessing of waste products.

94 21 (6) Pollution=control equipment used by a
94 22 manufacturer, including but not limited to that
94 23 required or certified by an agency of this state or of
94 24 the United States government.

94 25 b. The sales price from the sale of fuel used in
94 26 creating heat, power, steam, or for generating
94 27 electrical current, or from the sale of electricity,
94 28 consumed by computers, machinery, or equipment used in
94 29 an exempt manner described in paragraph "a",
94 30 subparagraph (1), (2), (3), (5), or (6).

94 31 c. The sales price from the sale or rental of the
94 32 following shall not be exempt from the tax imposed by
94 33 this subchapter:

94 34 (1) Hand tools.

94 35 (2) Point=of=sale equipment and computers.

94 36 (3) Industrial machinery, equipment, and
94 37 computers, including pollution=control equipment
94 38 within the scope of section 427A.1, subsection 1,
94 39 paragraphs "h" and "i".

94 40 (4) Vehicles subject to registration, except
94 41 vehicles subject to registration which are directly
94 42 and primarily used in recycling or reprocessing of

94 43 waste products.

94 44 d. As used in this subsection:

94 45 (1) "Commercial enterprise" includes businesses
94 46 and manufacturers conducted for profit and centers for
94 47 data processing services to insurance companies,
94 48 financial institutions, businesses, and manufacturers,
94 49 but excludes professions and occupations and nonprofit
94 50 organizations.

95 1 (2) "Financial institution" means as defined in
95 2 section 527.2.

95 3 (3) "Insurance company" means an insurer organized
95 4 or operating under chapter 508, 514, 515, 518, 518A,
95 5 519, or 520, or authorized to do business in Iowa as
95 6 an insurer or an insurance producer under chapter
95 7 522B.

95 8 (4) "Manufacturer" means as defined in section
95 9 428.20, but also includes contract manufacturers. A
95 10 contract manufacturer is a manufacturer that otherwise
95 11 falls within the definition of manufacturer under
95 12 section 428.20, except that a contract manufacturer
95 13 does not sell the tangible personal property the
95 14 contract manufacturer processes on behalf of other
95 15 manufacturers. A business engaged in activities
95 16 subsequent to the extractive process of quarrying or
95 17 mining, such as crushing, washing, sizing, or blending
95 18 of aggregate materials, is a manufacturer with respect
95 19 to these activities.

95 20 (5) "Processing" means a series of operations in
95 21 which materials are manufactured, refined, purified,
95 22 created, combined, or transformed by a manufacturer,
95 23 ultimately into tangible personal property.

95 24 Processing encompasses all activities commencing with
95 25 the receipt or producing of raw materials by the
95 26 manufacturer and ending at the point products are
95 27 delivered for shipment or transferred from the
95 28 manufacturer. Processing includes but is not limited
95 29 to refinement or purification of materials; treatment
95 30 of materials to change their form, context, or
95 31 condition; maintenance of the quality or integrity of
95 32 materials, components, or products; maintenance of
95 33 environmental conditions necessary for materials,
95 34 components, or products; quality control activities;
95 35 and construction of packaging and shipping devices,
95 36 placement into shipping containers or any type of
95 37 shipping devices or medium, and the movement of
95 38 materials, components, or products until shipment from
95 39 the processor.

95 40 (6) "Receipt or producing of raw materials" means
95 41 activities performed upon tangible personal property
95 42 only. With respect to raw materials produced from or
95 43 upon real estate, the receipt or producing of raw
95 44 materials is deemed to occur immediately following the
95 45 severance of the raw materials from the real estate.

95 46 47. The sales price from the furnishing of the
95 47 design and installation of new industrial machinery or
95 48 equipment, including electrical and electronic
95 49 installation.

95 50 48. The sales price from the sale of carbon
96 1 dioxide in a liquid, solid, or gaseous form,
96 2 electricity, steam, and other taxable services when
96 3 used by a manufacturer of food products to produce
96 4 marketable food products for human consumption,
96 5 including but not limited to treatment of material to
96 6 change its form, context, or condition, in order to
96 7 produce the food product, maintenance of quality or
96 8 integrity of the food product, changing or maintenance
96 9 of temperature levels necessary to avoid spoilage or
96 10 to hold the food product in marketable condition,
96 11 maintenance of environmental conditions necessary for
96 12 the safe or efficient use of machinery and material
96 13 used to produce the food product, sanitation and
96 14 quality control activities, formation of packaging,
96 15 placement into shipping containers, and movement of
96 16 the material or food product until shipment from the
96 17 building of manufacture.

96 18 49. The sales price of sales of electricity,
96 19 steam, or any taxable service when purchased and used
96 20 in the processing of tangible personal property
96 21 intended to be sold ultimately at retail.

96 22 50. The sales price of tangible personal property
96 23 sold for processing. Tangible personal property is

96 24 sold for processing within the meaning of this
96 25 subsection only when it is intended that the property
96 26 will, by means of fabrication, compounding,
96 27 manufacturing, or germination, become an integral part
96 28 of other tangible personal property intended to be
96 29 sold ultimately at retail; or for generating electric
96 30 current; or the property is a chemical, solvent,
96 31 sorbent, or reagent, which is directly used and is
96 32 consumed, dissipated, or depleted, in processing
96 33 tangible personal property which is intended to be
96 34 sold ultimately at retail or consumed in the
96 35 maintenance or repair of fabric or clothing, and which
96 36 may not become a component or integral part of the
96 37 finished product. The distribution to the public of
96 38 free newspapers or shoppers guides is a retail sale
96 39 for purposes of the processing exemption set out in
96 40 this subsection and in subsection 49.

96 41 51. The sales price from the sale of argon and
96 42 other similar gases to be used in the manufacturing
96 43 process.

96 44 52. The sales price from the sale of electricity
96 45 to water companies assessed for property tax pursuant
96 46 to sections 428.24, 428.26, and 428.28 which is used
96 47 solely for the purpose of pumping water from a river
96 48 or well.

96 49 53. The sales price from the sale of wind energy
96 50 conversion property to be used as an electric power
97 1 source and the sale of the materials used to
97 2 manufacture, install, or construct wind energy
97 3 conversion property used or to be used as an electric
97 4 power source.

97 5 For purposes of this subsection, "wind energy
97 6 conversion property" means any device, including, but
97 7 not limited to, a wind charger, windmill, wind
97 8 turbine, tower and electrical equipment, pad mount
97 9 transformers, power lines, and substation, which
97 10 converts wind energy to a form of usable energy.

97 11 54. The sales price from the sales of newspapers,
97 12 free newspapers, or shoppers guides and the printing
97 13 and publishing of such newspapers and shoppers guides,
97 14 and envelopes for advertising.

97 15 55. The sales price from the sale of motor fuel
97 16 and special fuel consumed for highway use or in
97 17 watercraft or aircraft where the fuel tax has been
97 18 imposed and paid and no refund has been or will be
97 19 allowed and the sales price from the sales of ethanol
97 20 blended gasoline, as defined in section 452A.2.

97 21 56. The sales price from all sales of food and
97 22 food ingredients. However, as used in this
97 23 subsection, "food" does not include alcoholic
97 24 beverages, candy, dietary supplements, food sold
97 25 through vending machines, prepared food, soft drinks,
97 26 and tobacco.

97 27 For the purposes of this subsection:

97 28 a. "Alcoholic beverages" means beverages that are
97 29 suitable for human consumption and contain one-half of
97 30 one percent or more of alcohol by volume.

97 31 b. "Candy" means a preparation of sugar, honey, or
97 32 other natural or artificial sweeteners in combination
97 33 with chocolate, fruits, nuts, or other ingredients or
97 34 flavorings in the form of bars, drops, or pieces.
97 35 Candy shall not include any preparation containing
97 36 flour and shall require no refrigeration.

97 37 c. "Dietary supplement" means any product, other
97 38 than tobacco, intended to supplement the diet that
97 39 contains one or more of the following dietary
97 40 ingredients:

97 41 (1) A vitamin.

97 42 (2) A mineral.

97 43 (3) An herb or other botanical.

97 44 (4) An amino acid.

97 45 (5) A dietary substance for use by humans to
97 46 supplement the diet by increasing the total dietary
97 47 intake.

97 48 (6) A concentrate, metabolite, constituent,
97 49 extract, or combination of any of the ingredients in
97 50 subparagraphs (1) through (5) that is intended for
98 1 ingestion in tablet, capsule, powder, softgel, gelcap,
98 2 or liquid form, or if not intended for ingestion in
98 3 such a form, is not represented as conventional food
98 4 and is not represented for use as a sole item of a

98 5 meal or of the diet; and is required to be labeled as
98 6 a dietary supplement, identifiable by the "supplement
98 7 facts" box found on the label and as required pursuant
98 8 to 21 C.F.R. } 101.36.
98 9 d. "Food and food ingredients" means substances,
98 10 whether in liquid, concentrated, solid, frozen, dried,
98 11 or dehydrated form, that are sold for ingestion or
98 12 chewing by humans and are consumed for their taste or
98 13 nutritional value.
98 14 e. "Food sold through vending machines" means food
98 15 dispensed from a machine or other mechanical device
98 16 that accepts payment, other than food which would be
98 17 qualified for exemption under subsection 57 if
98 18 purchased with a coupon described in subsection 57.
98 19 f. "Prepared food" means any of following:
98 20 (1) Food sold in a heated state or heated by the
98 21 seller, including food sold by a caterer.
98 22 (2) Two or more food ingredients mixed or combined
98 23 by the seller for sale as a single item.
98 24 (3) "Prepared food", for the purposes of this
98 25 paragraph, does not include food that is any of the
98 26 following:
98 27 (a) Only cut, repackaged, or pasteurized by the
98 28 seller.
98 29 (b) Eggs, fish, meat, poultry, and foods
98 30 containing these raw animal foods requiring cooking by
98 31 the consumer as recommended by the United States food
98 32 and drug administration in chapter 3, part 401.11 of
98 33 its food code, so as to prevent food borne illnesses.
98 34 (c) Bakery items sold by the seller which baked
98 35 them. The words "bakery items" includes but is not
98 36 limited to breads, rolls, buns, biscuits, bagels,
98 37 croissants, pastries, donuts, Danish, cakes, tortes,
98 38 pies, tarts, muffins, bars, cookies, and tortillas.
98 39 (d) Food sold without eating utensils provided by
98 40 the seller in an unheated state as a single item which
98 41 is priced by weight or volume.
98 42 (4) Food sold with eating utensils provided by the
98 43 seller, including plates, knives, forks, spoons,
98 44 glasses, cups, napkins, or straws. A plate does not
98 45 include a container or packaging used to transport
98 46 food.
98 47 g. "Soft drinks" means nonalcoholic beverages that
98 48 contain natural or artificial sweeteners. "Soft
98 49 drinks" does not include beverages that contain milk
98 50 or milk products; soy, rice, or similar milk
99 1 substitutes; or greater than fifty percent of
99 2 vegetable or fruit juice by volume.
99 3 f. "Tobacco" means cigarettes, cigars, chewing or
99 4 pipe tobacco, or any other item that contains tobacco.
99 5 57. The sales price from the sale of items
99 6 purchased with coupons issued under the federal Food
99 7 Stamp Act of 1977, 7 U.S.C. } 2011 et seq.
99 8 58. In transactions in which tangible personal
99 9 property is traded toward the sales price of other
99 10 tangible personal property, that portion of the sales
99 11 price which is not payable in money to the retailer is
99 12 exempted from the taxable amount if the following
99 13 conditions are met:
99 14 a. The tangible personal property traded to the
99 15 retailer is the type of property normally sold in the
99 16 regular course of the retailer's business.
99 17 b. The tangible personal property traded to the
99 18 retailer is intended by the retailer to be ultimately
99 19 sold at retail or is intended to be used by the
99 20 retailer or another in the remanufacturing of a like
99 21 item.
99 22 59. The sales price from the sale or rental of
99 23 prescription drugs or medical devices intended for
99 24 human use or consumption.
99 25 For the purposes of this subsection:
99 26 a. "Drug" means a compound, substance, or
99 27 preparation, and any component of a compound,
99 28 substance, or preparation, other than food and food
99 29 ingredients, dietary supplements, or alcoholic
99 30 beverages which is any of the following:
99 31 (1) Recognized in the official United States
99 32 pharmacopoeia, official homeopathic pharmacopoeia of
99 33 the United States, or official national formulary, and
99 34 supplement to any of them.
99 35 (2) Intended for use in the diagnosis, cure,

99 36 mitigation, treatment, or prevention of disease.
99 37 (3) Intended to affect the structure or any
99 38 function of the body.
99 39 b. "Medical device" means equipment or a supply,
99 40 intended to be prescribed by a practitioner, including
99 41 orthopedic or orthotic devices. However, "medical
99 42 device" also includes prosthetic devices, ostomy,
99 43 urological, and tracheostomy equipment and supplies,
99 44 and diabetic testing materials, hypodermic syringes
99 45 and needles, anesthesia trays, biopsy trays and biopsy
99 46 needles, cannula systems, catheter trays and invasive
99 47 catheters, dialyzers, drug infusion devices, fistula
99 48 sets, hemodialysis devices, insulin infusion devices,
99 49 intraocular lenses, irrigation solutions, intravenous
99 50 administering sets, solutions and stopcocks, myelogram
100 1 trays, nebulizers, small vein infusion kits, spinal
100 2 puncture trays, transfusion sets, venous blood sets,
100 3 and oxygen equipment, intended to be dispensed for
100 4 human use with or without a prescription to an
100 5 ultimate user.
100 6 c. "Practitioner" means a practitioner as defined
100 7 in section 155A.3, or a person licensed to prescribe
100 8 drugs.
100 9 d. "Prescription drug" means a drug intended to be
100 10 dispensed to an ultimate user pursuant to a
100 11 prescription drug order, formula, or recipe issued in
100 12 any form of oral, written, electronic, or other means
100 13 of transmission by a duly licensed practitioner, or
100 14 oxygen or insulin dispensed for human consumption with
100 15 or without a prescription drug order or medication
100 16 order.
100 17 e. "Prosthetic device" means a replacement,
100 18 corrective, or supportive device including repair and
100 19 replacement parts for the same worn on or in the body
100 20 to do any of the following:
100 21 (1) Artificially replace a missing portion of the
100 22 body.
100 23 (2) Prevent or correct physical deformity or
100 24 malfunction.
100 25 (3) Support a weak or deformed portion of the
100 26 body.
100 27 f. "Ultimate user" means an individual who has
100 28 lawfully obtained and possesses a prescription drug or
100 29 medical device for the individual's own use or for the
100 30 use of a member of the individual's household, or an
100 31 individual to whom a prescription drug or medical
100 32 device has been lawfully supplied, administered,
100 33 dispensed, or prescribed.
100 34 60. The sales price from services furnished by
100 35 aerial commercial and charter transportation services.
100 36 61. The sales price from the sale of raffle
100 37 tickets for a raffle licensed pursuant to section
100 38 99B.5.
100 39 62. The sales price from the sale of tangible
100 40 personal property which will be given as prizes to
100 41 players in games of skill, games of chance, raffles,
100 42 and bingo games as defined in chapter 99B.
100 43 63. The sales price from the sale of a modular
100 44 home, as defined in section 435.1, to the extent of
100 45 the portion of the purchase price of the modular home
100 46 which is not attributable to the cost of the tangible
100 47 personal property used in the processing of the
100 48 modular home. For purposes of this exemption, the
100 49 portion of the purchase price which is not
100 50 attributable to the cost of the tangible personal
101 1 property used in the processing of the modular home is
101 2 forty percent.
101 3 64. The sales price from charges paid to a
101 4 provider for access to on-line computer services. For
101 5 purposes of this subsection, "on-line computer
101 6 service" means a service that provides or enables
101 7 computer access by multiple users to the internet or
101 8 to other information made available through a computer
101 9 server.
101 10 65. The sales price from the sale or rental of
101 11 information services. "Information services" means
101 12 every business activity, process, or function by which
101 13 a seller or its agent accumulates, prepares,
101 14 organizes, or conveys data, facts, knowledge,
101 15 procedures, and like services to a buyer or its agent
101 16 of such information through any tangible or intangible

101 17 medium. Information accumulated, prepared, or
101 18 organized for a buyer or its agent is an information
101 19 service even though it may incorporate preexisting
101 20 components of data or other information. "Information
101 21 services" includes, but is not limited to, database
101 22 files, mailing lists, subscription files, market
101 23 research, credit reports, surveys, real estate
101 24 listings, bond rating reports, abstracts of title, bad
101 25 check lists, broadcasting rating services, wire
101 26 services, and scouting reports, or other similar
101 27 items.

101 28 66. The sales price of a sale at retail if the
101 29 substance of the transaction is delivered to the
101 30 purchaser digitally, electronically, or utilizing
101 31 cable, or by radio waves, microwaves, satellites, or
101 32 fiber optics.

101 33 67. a. The sales price from the sale of an
101 34 article of clothing designed to be worn on or about
101 35 the human body if all of the following apply:

101 36 (1) The sales price of the article is less than
101 37 one hundred dollars.

101 38 (2) The sale takes place during a period beginning
101 39 at 12:01 a.m. on the first Friday in August and ending
101 40 at midnight on the following Saturday.

101 41 b. This subsection does not apply to any of the
101 42 following:

101 43 (1) Sport or recreational equipment and protective
101 44 equipment.

101 45 (2) Clothing accessories or equipment.

101 46 (3) The rental of clothing.

101 47 c. For purposes of this subsection:

101 48 (1) "Clothing" means all human wearing apparel
101 49 suitable for general use. "Clothing" includes, but is
101 50 not limited to the following: aprons, household and
102 1 shop; athletic supporters; baby receiving blankets;
102 2 bathing suits and caps; beach capes and coats; belts
102 3 and suspenders; boots; coats and jackets; costumes;
102 4 diapers (children and adults, including disposable
102 5 diapers); earmuffs; footlets; formal wear; garters and
102 6 garter belts; girdles; gloves and mittens for general
102 7 use; hats and caps; hosiery; insoles for shoes; lab
102 8 coats; neckties; overshoes; pantyhose; rainwear;
102 9 rubber pants; sandals; scarves; shoes and shoelaces;
102 10 slippers; sneakers; socks and stockings; steel-toed
102 11 shoes; underwear; uniforms, athletic and nonathletic;
102 12 and wedding apparel.

102 13 "Clothing" does not include the following: belt
102 14 buckles sold separately; costume masks sold
102 15 separately; patches and emblems sold separately;
102 16 sewing equipment and supplies (including, but not
102 17 limited to, knitting needles, patterns, pins,
102 18 scissors, sewing machines, sewing needles, tape
102 19 measures, and thimbles); and sewing materials that
102 20 become part of clothing (including, but not limited
102 21 to, buttons, fabric, lace, thread, yarn, and zippers).

102 22 (2) "Clothing accessories or equipment" means
102 23 incidental items worn on the person or in conjunction
102 24 with clothing. "Clothing accessories or equipment"
102 25 includes, but is not limited to, the following:
102 26 briefcases; cosmetics; hair notions (including, but
102 27 not limited to, barrettes, hair bows, and hair nets);
102 28 handbags; handkerchiefs; jewelry; sunglasses,
102 29 nonprescription; umbrellas; wallets; watches; and wigs
102 30 and hairpieces.

102 31 (3) "Protective equipment" means items for human
102 32 wear and designed as protection for the wearer against
102 33 injury or disease or as protection against damage or
102 34 injury of other persons or property but not suitable
102 35 for general use. "Protective equipment" includes, but
102 36 is not limited to, the following: breathing masks;
102 37 clean room apparel and equipment; ear and hearing
102 38 protectors; face shields; hard hats; helmets; paint or
102 39 dust respirators; protective gloves; safety glasses
102 40 and goggles; safety belts; tool belts; and welders
102 41 gloves and masks.

102 42 (4) "Sport or recreational equipment" means items
102 43 designed for human use and worn in conjunction with an
102 44 athletic or recreational activity that are not
102 45 suitable for general use. "Sport or recreational
102 46 equipment" includes, but is not limited to, the
102 47 following: ballet and tap shoes; cleated or spiked

102 48 athletic shoes; gloves (including, but not limited to,
102 49 baseball, bowling, boxing, hockey, and golf); goggles;
102 50 hand and elbow guards; life preservers and vests;
103 1 mouth guards; roller and ice skates; shin guards;
103 2 shoulder pads; ski boots; waders; and wetsuits and
103 3 fins.

103 4 68. a. Subject to paragraph "b", the sales price
103 5 from the sale or furnishing of metered gas,
103 6 electricity, and fuel, including propane and heating
103 7 oil, to residential customers which is used to provide
103 8 energy for residential dwellings and units of
103 9 apartment and condominium complexes used for human
103 10 occupancy.

103 11 b. The exemption in this subsection shall be
103 12 phased in by means of a reduction in the tax rate as
103 13 follows:

103 14 (1) If the date of the utility billing or meter
103 15 reading cycle of the residential customer for the sale
103 16 or furnishing of metered gas and electricity is on or
103 17 after January 1, 2002, through December 31, 2002, or
103 18 if the sale or furnishing of fuel for purposes of
103 19 residential energy and the delivery of the fuel occurs
103 20 on or after January 1, 2002, through December 31,
103 21 2002, the rate of tax is four percent of the sales
103 22 price.

103 23 (2) If the date of the utility billing or meter
103 24 reading cycle of the residential customer for the sale
103 25 or furnishing of metered gas and electricity is on or
103 26 after January 1, 2003, through June 30, 2008, or if
103 27 the sale or furnishing of fuel for purposes of
103 28 residential energy and the delivery of the fuel occurs
103 29 on or after January 1, 2003, through June 30, 2008,
103 30 the rate of tax is three percent of the sales price.

103 31 (3) If the date of the utility billing or meter
103 32 reading cycle of the residential customer for the sale
103 33 or furnishing of metered gas and electricity is on or
103 34 after July 1, 2008, through June 30, 2009, or if the
103 35 sale or furnishing of fuel for purposes of residential
103 36 energy and the delivery of the fuel occurs on or after
103 37 July 1, 2008, through June 30, 2009, the rate of tax
103 38 is two percent of the sales price.

103 39 (4) If the date of the utility billing or meter
103 40 reading cycle of the residential customer for the sale
103 41 or furnishing of metered gas and electricity is on or
103 42 after July 1, 2009, through June 30, 2010, or if the
103 43 sale or furnishing of fuel for purposes of residential
103 44 energy and the delivery of the fuel occurs on or after
103 45 July 1, 2009, through June 30, 2010, the rate of tax
103 46 is one percent of the sales price.

103 47 (5) If the date of the utility billing or meter
103 48 reading cycle of the residential customer for the sale
103 49 or furnishing of metered gas and electricity is on or
103 50 after July 1, 2010, or if the sale, furnishing, or
104 1 service of fuel for purposes of residential energy and
104 2 the delivery of the fuel occurs on or after July 1,
104 3 2010, the rate of tax is zero percent of the sales
104 4 price.

104 5 c. The exemption in this subsection does not apply
104 6 to local option sales and services tax imposed
104 7 pursuant to chapters 423B and 423E.

104 8 69. The sales price from charges paid for the
104 9 delivery of electricity or natural gas if the sale or
104 10 furnishing of the electricity or natural gas or its
104 11 use is exempt from the tax on sales prices imposed
104 12 under this subchapter or from the use tax imposed
104 13 under subchapter III.

104 14 70. The sales price from the sales, furnishing, or
104 15 service of transportation service except the rental of
104 16 recreational vehicles or recreational boats, except
104 17 the rental of motor vehicles subject to registration
104 18 which are registered for a gross weight of thirteen
104 19 tons or less for a period of sixty days or less, and
104 20 except the rental of aircraft for a period of sixty
104 21 days or less. This exemption does not apply to the
104 22 transportation of electric energy or natural gas.

104 23 71. The sales price from sales of tangible
104 24 personal property used or to be used as railroad
104 25 rolling stock for transporting persons or property, or
104 26 as materials or parts therefor.

104 27 72. The sales price from the sales of special fuel
104 28 for diesel engines consumed or used in the operation

104 29 of ships, barges, or waterborne vessels which are used
104 30 primarily in or for the transportation of property or
104 31 cargo, or the conveyance of persons for hire on rivers
104 32 bordering on the state if the fuel is delivered by the
104 33 seller to the purchaser's barge, ship, or waterborne
104 34 vessel while it is afloat upon such a river.

104 35 73. The sales price from sales of vehicles subject
104 36 to registration or subject only to the issuance of a
104 37 certificate of title and sales of aircraft subject to
104 38 registration under section 328.20.

104 39 74. The sales price from the sale of aircraft for
104 40 use in a scheduled interstate federal aviation
104 41 administration certificated air carrier operation.

104 42 75. The sales price from the sale or rental of
104 43 aircraft; the sale or rental of tangible personal
104 44 property permanently affixed or attached as a
104 45 component part of the aircraft, including but not
104 46 limited to repair or replacement materials or parts;
104 47 and the sales price of all services used for aircraft
104 48 repair, remodeling, and maintenance services when such
104 49 services are performed on aircraft, aircraft engines,
104 50 or aircraft component materials or parts. For the
105 1 purposes of this exemption, "aircraft" means aircraft
105 2 used in a scheduled interstate federal aviation
105 3 administration certificated air carrier operation.

105 4 76. The sales price from the sale or rental of
105 5 tangible personal property permanently affixed or
105 6 attached as a component part of the aircraft,
105 7 including but not limited to repair or replacement
105 8 materials or parts; and the sales price of all
105 9 services used for aircraft repair, remodeling, and
105 10 maintenance services when such services are performed
105 11 on aircraft, aircraft engines, or aircraft component
105 12 materials or parts. For the purposes of this
105 13 exemption, "aircraft" means aircraft used in
105 14 nonscheduled interstate federal aviation
105 15 administration certificated air carrier operation
105 16 operating under 14 C.F.R. ch. 1, pt. 135.

105 17 77. The sales price from the sale of aircraft to
105 18 an aircraft dealer who in turn rents or leases the
105 19 aircraft if all of the following apply:

105 20 a. The aircraft is kept in the inventory of the
105 21 dealer for sale at all times.

105 22 b. The dealer reserves the right to immediately
105 23 take the aircraft from the renter or lessee when a
105 24 buyer is found.

105 25 c. The renter or lessee is aware that the dealer
105 26 will immediately take the aircraft when a buyer is
105 27 found.

105 28 If an aircraft exempt under this subsection is used
105 29 for any purpose other than leasing or renting, or the
105 30 conditions in paragraphs "a", "b", and "c" are not
105 31 continuously met, the dealer claiming the exemption
105 32 under this subsection is liable for the tax that would
105 33 have been due except for this subsection. The tax
105 34 shall be computed upon the original purchase price.

105 35 78. The sales price from sales or rental of
105 36 tangible personal property, or services rendered by
105 37 any entity where the profits from the sales or rental
105 38 of the tangible personal property, or services
105 39 rendered are used by or donated to a nonprofit entity
105 40 which is exempt from federal income taxation pursuant
105 41 to section 501(c)(3) of the Internal Revenue Code, a
105 42 government entity, or a nonprofit private educational
105 43 institution, and where the entire proceeds from the
105 44 sales, rental, or services are expended for any of the
105 45 following purposes:

105 46 a. Educational.

105 47 b. Religious.

105 48 c. Charitable. A charitable act is an act done
105 49 out of goodwill, benevolence, and a desire to add to
105 50 or to improve the good of humankind in general or any
106 1 class or portion of humankind, with no pecuniary
106 2 profit inuring to the person performing the service or
106 3 giving the gift.

106 4 This exemption does not apply to the sales price
106 5 from games of skill, games of chance, raffles, and
106 6 bingo games as defined in chapter 99B. This exemption
106 7 is disallowed on the amount of the sales price only to
106 8 the extent the profits from the sales, rental, or
106 9 services are not used by or donated to the appropriate

106 10 entity and expended for educational, religious, or
106 11 charitable purposes.

106 12 79. The sales price from the sale or rental of
106 13 tangible personal property or from services furnished
106 14 to a recognized community action agency as provided in
106 15 section 216A.93 to be used for the purposes of the
106 16 agency.

106 17 80. a. For purposes of this subsection,
106 18 "designated exempt entity" means an entity which is
106 19 designated in section 423.4, subsection 1.

106 20 b. If a contractor, subcontractor, or builder is
106 21 to use building materials, supplies, and equipment in
106 22 the performance of a construction contract with a
106 23 designated exempt entity, the person shall purchase
106 24 such items of tangible personal property without
106 25 liability for the tax if such property will be used in
106 26 the performance of the construction contract and a
106 27 purchasing agent authorization letter and an exemption
106 28 certificate, issued by the designated exempt entity,
106 29 are presented to the retailer.

106 30 c. Where the owner, contractor, subcontractor, or
106 31 builder is also a retailer holding a retail sales tax
106 32 permit and transacting retail sales of building
106 33 materials, supplies, and equipment, the tax shall not
106 34 be due when materials are withdrawn from inventory for
106 35 use in construction performed for a designated exempt
106 36 entity if an exemption certificate is received from
106 37 such entity.

106 38 d. Tax shall not apply to tangible personal
106 39 property purchased and consumed by a manufacturer as
106 40 building materials, supplies, or equipment in the
106 41 performance of a construction contract for a
106 42 designated exempt entity, if a purchasing agent
106 43 authorization letter and an exemption certificate are
106 44 received from such entity and presented to a retailer.

106 45 81. The sales price from the sales of lottery
106 46 tickets or shares pursuant to chapter 99G.

106 47 82. The sales price from the sale or rental of
106 48 core and mold making equipment and sand handling
106 49 equipment directly and primarily used in the handling
106 50 equipment directly and primarily used in the mold
107 1 making process by a foundry.

107 2 83. The sales price from noncustomer point of sale
107 3 or noncustomer automated teller machine access or
107 4 service charges assessed by a financial institution.
107 5 For purposes of this subsection, "financial
107 6 institution" means the same as defined in section
107 7 527.2.

107 8 Sec. 135. NEW SECTION. 423.4 REFUNDS.

107 9 1. A private nonprofit educational institution in
107 10 this state, nonprofit private museum in this state,
107 11 tax-certifying or tax-levying body or governmental
107 12 subdivision of the state, including the state board of
107 13 regents, state department of human services, state
107 14 department of transportation, a municipally owned
107 15 solid waste facility which sells all or part of its
107 16 processed waste as fuel to a municipally owned public
107 17 utility, and all divisions, boards, commissions,
107 18 agencies, or instrumentalities of state, federal,
107 19 county, or municipal government which do not have
107 20 earnings going to the benefit of an equity investor or
107 21 stockholder, may make application to the department
107 22 for the refund of the sales or use tax upon the sales
107 23 price of all sales of goods, wares, or merchandise, or
107 24 from services furnished to a contractor, used in the
107 25 fulfillment of a written contract with the state of
107 26 Iowa, any political subdivision of the state, or a
107 27 division, board, commission, agency, or
107 28 instrumentality of the state or a political
107 29 subdivision, a private nonprofit educational
107 30 institution in this state, or a nonprofit private
107 31 museum in this state if the property becomes an
107 32 integral part of the project under contract and at the
107 33 completion of the project becomes public property, is
107 34 devoted to educational uses, or becomes a nonprofit
107 35 private museum; except goods, wares, or merchandise,
107 36 or services furnished which are used in the
107 37 performance of any contract in connection with the
107 38 operation of any municipal utility engaged in selling
107 39 gas, electricity, or heat to the general public or in
107 40 connection with the operation of a municipal pay

107 41 television system; and except goods, wares, and
107 42 merchandise used in the performance of a contract for
107 43 a "project" under chapter 419 as defined in that
107 44 chapter other than goods, wares, or merchandise used
107 45 in the performance of a contract for a "project" under
107 46 chapter 419 for which a bond issue was approved by a
107 47 municipality prior to July 1, 1968, or for which the
107 48 goods, wares, or merchandise becomes an integral part
107 49 of the project under contract and at the completion of
107 50 the project becomes public property or is devoted to
108 1 educational uses.

108 2 a. Such contractor shall state under oath, on
108 3 forms provided by the department, the amount of such
108 4 sales of goods, wares, or merchandise, or services
108 5 furnished and used in the performance of such
108 6 contract, and upon which sales or use tax has been
108 7 paid, and shall file such forms with the governmental
108 8 unit, private nonprofit educational institution, or
108 9 nonprofit private museum which has made any written
108 10 contract for performance by the contractor. The forms
108 11 shall be filed by the contractor with the governmental
108 12 unit, educational institution, or nonprofit private
108 13 museum before final settlement is made.

108 14 b. Such governmental unit, educational
108 15 institution, or nonprofit private museum shall, not
108 16 more than one year after the final settlement has been
108 17 made, make application to the department for any
108 18 refund of the amount of the sales or use tax which
108 19 shall have been paid upon any goods, wares, or
108 20 merchandise, or services furnished, the application to
108 21 be made in the manner and upon forms to be provided by
108 22 the department, and the department shall forthwith
108 23 audit the claim and, if approved, issue a warrant to
108 24 the governmental unit, educational institution, or
108 25 nonprofit private museum in the amount of the sales or
108 26 use tax which has been paid to the state of Iowa under
108 27 the contract.

108 28 Refunds authorized under this subsection shall
108 29 accrue interest at the rate in effect under section
108 30 421.7 from the first day of the second calendar month
108 31 following the date the refund claim is received by the
108 32 department.

108 33 c. Any contractor who willfully makes a false
108 34 report of tax paid under the provisions of this
108 35 subsection is guilty of a simple misdemeanor and in
108 36 addition shall be liable for the payment of the tax
108 37 and any applicable penalty and interest.

108 38 2. The refund of sales and use tax paid on
108 39 transportation construction projects let by the state
108 40 department of transportation is subject to the special
108 41 provisions of this subsection.

108 42 a. A contractor awarded a contract for a
108 43 transportation construction project is considered the
108 44 consumer of all building materials, building supplies,
108 45 and equipment and shall pay sales tax to the supplier
108 46 or remit consumer use tax directly to the department.

108 47 b. The contractor is not required to file
108 48 information with the state department of
108 49 transportation stating the amount of goods, wares, or
108 50 merchandise, or services rendered, furnished, or
109 1 performed and used in the performance of the contract
109 2 or the amount of sales or use tax paid.

109 3 c. The state department of transportation shall
109 4 file a refund claim based on a formula that considers
109 5 the following:

109 6 (1) The quantity of material to complete the
109 7 contract, and quantities of items of work.

109 8 (2) The estimated cost of these materials included
109 9 in the items of work, and the state sales or use tax
109 10 to be paid on the tax rate in effect in section 423.2.
109 11 The quantity of materials shall be determined after
109 12 each letting based on the contract quantities of all
109 13 items of work let to contract. The quantity of
109 14 individual component materials required for each item
109 15 shall be determined and maintained in a database. The
109 16 total quantities of materials shall be determined by
109 17 multiplying the quantities of component materials for
109 18 each contract item of work by the total quantities of
109 19 each contract item for each letting. Where variances
109 20 exist in the cost of materials, the lowest cost shall
109 21 be used as the base cost.

109 22 d. Only the state sales or use tax is refundable.
109 23 Local option taxes paid by the contractor are not
109 24 refundable.
109 25 3. A relief agency may apply to the director for
109 26 refund of the amount of sales or use tax imposed and
109 27 paid upon sales to it of any goods, wares,
109 28 merchandise, or services furnished, used for free
109 29 distribution to the poor and needy.

109 30 a. The refunds may be obtained only in the
109 31 following amounts and manner and only under the
109 32 following conditions:

109 33 (1) On forms furnished by the department, and
109 34 filed within the time as the director shall provide by
109 35 rule, the relief agency shall report to the department
109 36 the total amount or amounts, valued in money, expended
109 37 directly or indirectly for goods, wares, merchandise,
109 38 or services furnished, used for free distribution to
109 39 the poor and needy.

109 40 (2) On these forms the relief agency shall
109 41 separately list the persons making the sales to it or
109 42 to its order, together with the dates of the sales,
109 43 and the total amount so expended by the relief agency.

109 44 (3) The relief agency must prove to the
109 45 satisfaction of the director that the person making
109 46 the sales has included the amount thereof in the
109 47 computation of the sales price of such person and that
109 48 such person has paid the tax levied by this subchapter
109 49 or subchapter III, based upon such computation of the
109 50 sales price.

110 1 b. If satisfied that the foregoing conditions and
110 2 requirements have been complied with, the director
110 3 shall refund the amount claimed by the relief agency.

110 4 SUBCHAPTER III
110 5 USE TAX

110 6 Sec. 136. NEW SECTION. 423.5 IMPOSITION OF TAX.

110 7 An excise tax at the rate of five percent of the
110 8 purchase price or installed purchase price is imposed
110 9 on the following:

110 10 1. The use in this state of tangible personal
110 11 property as defined in section 423.1, including
110 12 aircraft subject to registration under section 328.20,
110 13 purchased for use in this state. For the purposes of
110 14 this subchapter, the furnishing or use of the
110 15 following services is also treated as the use of
110 16 tangible personal property: optional service or
110 17 warranty contracts, except residential service
110 18 contracts regulated under chapter 523C, vulcanizing,
110 19 recapping, or retreading services, engraving,
110 20 photography, retouching, printing, or binding
110 21 services, and communication service when furnished or
110 22 delivered to consumers or users within this state.

110 23 2. The use of manufactured housing in this state,
110 24 on the purchase price if the manufactured housing is
110 25 sold in the form of tangible personal property or on
110 26 the installed purchase price if the manufactured
110 27 housing is sold in the form of realty.

110 28 3. The use of leased vehicles, on the amount
110 29 subject to tax as calculated pursuant to section
110 30 423.27.

110 31 4. Purchases of tangible personal property made
110 32 from the government of the United States or any of its
110 33 agencies by ultimate consumers shall be subject to the
110 34 tax imposed by this section. Services purchased from
110 35 the same source or sources shall be subject to the
110 36 service tax imposed by this subchapter and apply to
110 37 the user of the services.

110 38 5. The use in this state of services enumerated in
110 39 section 423.2. This tax is applicable where services
110 40 are furnished in this state or where the product or
110 41 result of the service is used in this state.

110 42 6. The excise tax is imposed upon every person
110 43 using the property within this state until the tax has
110 44 been paid directly to the county treasurer, the state
110 45 department of transportation, a retailer, or the
110 46 department. This tax is imposed on every person using
110 47 the services or the product of the services in this
110 48 state until the user has paid the tax either to an
110 49 Iowa use tax permit holder or to the department.

110 50 7. For the purpose of the proper administration of
111 1 the use tax and to prevent its evasion, evidence that
111 2 tangible personal property was sold by any person for

111 3 delivery in this state shall be prima facie evidence
111 4 that such tangible personal property was sold for use
111 5 in this state.

111 6 Sec. 137. NEW SECTION. 423.6 EXEMPTIONS.

111 7 The use in this state of the following tangible
111 8 personal property and services is exempted from the
111 9 tax imposed by this subchapter:

111 10 1. Tangible personal property and enumerated
111 11 services, the sales price from the sale of which are
111 12 required to be included in the measure of the sales
111 13 tax, if that tax has been paid to the department or
111 14 the retailer. This exemption does not include
111 15 vehicles subject to registration or subject only to
111 16 the issuance of a certificate of title.

111 17 2. The sale of tangible personal property or the
111 18 furnishing of services in the regular course of
111 19 business.

111 20 3. Property used in processing. The use of
111 21 property in processing within the meaning of this
111 22 subsection shall mean and include any of the
111 23 following:

111 24 a. Any tangible personal property including
111 25 containers which it is intended shall, by means of
111 26 fabrication, compounding, manufacturing, or
111 27 germination, become an integral part of other tangible
111 28 personal property intended to be sold ultimately at
111 29 retail, and containers used in the collection,
111 30 recovery, or return of empty beverage containers
111 31 subject to chapter 455C.

111 32 b. Fuel which is consumed in creating power, heat,
111 33 or steam for processing or for generating electric
111 34 current.

111 35 c. Chemicals, solvents, sorbents, or reagents,
111 36 which are directly used and are consumed, dissipated,
111 37 or depleted in processing tangible personal property
111 38 which is intended to be sold ultimately at retail, and
111 39 which may not become a component or integral part of
111 40 the finished product.

111 41 d. The distribution to the public of free
111 42 newspapers or shoppers guides shall be deemed a retail
111 43 sale for purposes of the processing exemption in this
111 44 subsection.

111 45 4. All articles of tangible personal property
111 46 brought into the state of Iowa by a nonresident
111 47 individual for the individual's use or enjoyment while
111 48 within the state.

111 49 5. Services exempt from taxation by the provisions
111 50 of section 423.3.

112 1 6. Tangible personal property or services the
112 2 sales price of which is exempt from the sales tax
112 3 under section 423.3, except subsections 39 and 73, as
112 4 it relates to the sale, but not the lease or rental,
112 5 of vehicles subject to registration or subject only to
112 6 the issuance of a certificate of title and as it
112 7 relates to aircraft subject to registration under
112 8 section 328.20.

112 9 7. Advertisement and promotional material and
112 10 matter, seed catalogs, envelopes for same, and other
112 11 similar material temporarily stored in this state
112 12 which are acquired outside of Iowa and which,
112 13 subsequent to being brought into this state, are sent
112 14 outside of Iowa, either singly or physically attached
112 15 to other tangible personal property sent outside of
112 16 Iowa.

112 17 8. Vehicles, as defined in section 321.1,
112 18 subsections 41, 64A, 71, 85, and 88, except such
112 19 vehicles subject to registration which are designed
112 20 primarily for carrying persons, when purchased for
112 21 lease and actually leased to a lessee for use outside
112 22 the state of Iowa and the subsequent sole use in Iowa
112 23 is in interstate commerce or interstate
112 24 transportation.

112 25 9. Tangible personal property which, by means of
112 26 fabrication, compounding, or manufacturing, becomes an
112 27 integral part of vehicles, as defined in section
112 28 321.1, subsections 41, 64A, 71, 85, and 88,
112 29 manufactured for lease and actually leased to a lessee
112 30 for use outside the state of Iowa and the subsequent
112 31 sole use in Iowa is in interstate commerce or
112 32 interstate transportation. Vehicles subject to
112 33 registration which are designed primarily for carrying

112 34 persons are excluded from this subsection.
112 35 10. Vehicles subject to registration which are
112 36 transferred from a business or individual conducting a
112 37 business within this state as a sole proprietorship,
112 38 partnership, or limited liability company to a
112 39 corporation formed by the sole proprietorship,
112 40 partnership, or limited liability company for the
112 41 purpose of continuing the business when all of the
112 42 stock of the corporation so formed is owned by the
112 43 sole proprietor and the sole proprietor's spouse, by
112 44 all the partners in the case of a partnership, or by
112 45 all the members in the case of a limited liability
112 46 company. This exemption is equally available where
112 47 the vehicles subject to registration are transferred
112 48 from a corporation to a sole proprietorship,
112 49 partnership, or limited liability company formed by
112 50 that corporation for the purpose of continuing the
113 1 business when all of the incidents of ownership are
113 2 owned by the same person or persons who were
113 3 stockholders of the corporation.

113 4 This exemption also applies where the vehicles
113 5 subject to registration are transferred from a
113 6 corporation as part of the liquidation of the
113 7 corporation to its stockholders if within three months
113 8 of such transfer the stockholders retransfer those
113 9 vehicles subject to registration to a sole
113 10 proprietorship, partnership, or limited liability
113 11 company for the purpose of continuing the business of
113 12 the corporation when all of the incidents of ownership
113 13 are owned by the same person or persons who were
113 14 stockholders of the corporation.

113 15 10A. Vehicles subject to registration which are
113 16 transferred from a corporation that is primarily
113 17 engaged in the business of leasing vehicles subject to
113 18 registration to a corporation that is primarily
113 19 engaged in the business of leasing vehicles subject to
113 20 registration when the transferor and transferee
113 21 corporations are part of the same controlled group for
113 22 federal income tax purposes.

113 23 11. Vehicles registered or operated under chapter
113 24 326 and used substantially in interstate commerce,
113 25 section 423.5, subsection 7, notwithstanding. For
113 26 purposes of this subsection, "substantially in
113 27 interstate commerce" means that a minimum of twenty=
113 28 five percent of the miles operated by the vehicle
113 29 accrues in states other than Iowa. This subsection
113 30 applies only to vehicles which are registered for a
113 31 gross weight of thirteen tons or more.

113 32 For purposes of this subsection, trailers and
113 33 semitrailers registered or operated under chapter 326
113 34 are deemed to be used substantially in interstate
113 35 commerce and to be registered for a gross weight of
113 36 thirteen tons or more.

113 37 For the purposes of this subsection, if a vehicle
113 38 meets the requirement that twenty-five percent of the
113 39 miles operated accrues in states other than Iowa in
113 40 each year of the first four-year period of operation,
113 41 the exemption from use tax shall continue until the
113 42 vehicle is sold or transferred. If the vehicle is
113 43 found to have not met the exemption requirements or
113 44 the exemption was revoked, the value of the vehicle
113 45 upon which the use tax shall be imposed is the book or
113 46 market value, whichever is less, at the time the
113 47 exemption requirements were not met or the exemption
113 48 was revoked.

113 49 12. Mobile homes and manufactured housing the use
113 50 of which has previously been subject to the tax
114 1 imposed under this subchapter and for which that tax
114 2 has been paid.

114 3 13. Mobile homes to the extent of the portion of
114 4 the purchase price of the mobile home which is not
114 5 attributable to the cost of the tangible personal
114 6 property used in the processing of the mobile home,
114 7 and manufactured housing to the extent of the purchase
114 8 price or the installed purchase price of the
114 9 manufactured housing which is not attributable to the
114 10 cost of the tangible personal property used in the
114 11 processing of the manufactured housing. For purposes
114 12 of this exemption, the portion of the purchase price
114 13 which is not attributable to the cost of the tangible
114 14 personal property used in the processing of the mobile

114 15 home is forty percent and the portion of the purchase
114 16 price or installed purchase price which is not
114 17 attributable to the cost of the tangible personal
114 18 property used in the processing of the manufactured
114 19 housing is forty percent.
114 20 14. Tangible personal property used or to be used
114 21 as a ship, barge, or waterborne vessel which is used
114 22 or to be used primarily in or for the transportation
114 23 of property or cargo for hire on the rivers bordering
114 24 the state or as materials or parts of such ship,
114 25 barge, or waterborne vessel.
114 26 15. Vehicles subject to registration in any state
114 27 when purchased for rental or registered and titled by
114 28 a motor vehicle dealer licensed pursuant to chapter
114 29 322 for rental use, and held for rental for a period
114 30 of one hundred twenty days or more and actually rented
114 31 for periods of sixty days or less by a person
114 32 regularly engaged in the business of renting vehicles
114 33 including, but not limited to, motor vehicle dealers
114 34 licensed pursuant to chapter 322 who rent automobiles
114 35 to users, if the rental of the vehicles is subject to
114 36 taxation under chapter 423C.
114 37 16. Motor vehicles subject to registration which
114 38 were registered and titled between July 1, 1982, and
114 39 July 1, 1992, to a motor vehicle dealer licensed under
114 40 chapter 322 and which were rented to a user as defined
114 41 in section 423C.2 if the following occurred:
114 42 a. The dealer kept the vehicle on the inventory of
114 43 vehicles for sale at all times.
114 44 b. The vehicle was to be immediately taken from
114 45 the user of the vehicle when a buyer was found.
114 46 c. The user was aware of this situation.
114 47 17. Vehicles subject to registration under chapter
114 48 321, with a gross vehicle weight rating of less than
114 49 sixteen thousand pounds, excluding motorcycles and
114 50 motorized bicycles, when purchased for lease and
115 1 titled by the lessor licensed pursuant to chapter 321F
115 2 and actually leased for a period of twelve months or
115 3 more if the lease of the vehicle is subject to
115 4 taxation under section 423.27.
115 5 A lessor may maintain the exemption from use tax
115 6 under this subsection for a qualifying lease that
115 7 terminates at the conclusion or prior to the
115 8 contracted expiration date, if the lessor does not use
115 9 the vehicle for any purpose other than for lease.
115 10 Once the vehicle is used by the lessor for a purpose
115 11 other than for lease, the exemption from use tax under
115 12 this subsection no longer applies and, unless there is
115 13 an exemption from the use tax, use tax is due on the
115 14 fair market value of the vehicle determined at the
115 15 time the lessor uses the vehicle for a purpose other
115 16 than for lease, payable to the department. If the
115 17 lessor holds the vehicle exclusively for sale, use tax
115 18 is due and payable on the purchase price of the
115 19 vehicle at the time of purchase pursuant to this
115 20 subchapter.
115 21 18. Aircraft for use in a scheduled interstate
115 22 federal aviation administration certificated air
115 23 carrier operation.
115 24 19. Aircraft; tangible personal property
115 25 permanently affixed or attached as a component part of
115 26 the aircraft, including but not limited to repair or
115 27 replacement materials or parts; and all services used
115 28 for aircraft repair, remodeling, and maintenance
115 29 services when such services are performed on aircraft,
115 30 aircraft engines, or aircraft component materials or
115 31 parts. For the purposes of this exemption, "aircraft"
115 32 means aircraft used in a scheduled interstate federal
115 33 aviation administration certificated air carrier
115 34 operation.
115 35 20. Tangible personal property permanently affixed
115 36 or attached as a component part of the aircraft,
115 37 including but not limited to repair or replacement
115 38 materials or parts; and all services used for aircraft
115 39 repair, remodeling, and maintenance services when such
115 40 services are performed on aircraft, aircraft engines,
115 41 or aircraft component materials or parts. For the
115 42 purposes of this exemption, "aircraft" means aircraft
115 43 used in a nonscheduled interstate federal aviation
115 44 administration certificated air carrier operation
115 45 operating under 14 C.F.R., ch. 1, pt. 135.

115 46 21. Aircraft sold to an aircraft dealer who in
115 47 turn rents or leases the aircraft if all of the
115 48 following apply:
115 49 a. The aircraft is kept in the inventory of the
115 50 dealer for sale at all times.
116 1 b. The dealer reserves the right to immediately
116 2 take the aircraft from the renter or lessee when a
116 3 buyer is found.
116 4 c. The renter or lessee is aware that the dealer
116 5 will immediately take the aircraft when a buyer is
116 6 found.
116 7 If an aircraft exempt under this subsection is used
116 8 for any purpose other than leasing or renting, or the
116 9 conditions in paragraphs "a", "b", and "c" are not
116 10 continuously met, the dealer claiming the exemption
116 11 under this subsection is liable for the tax that would
116 12 have been due except for this subsection. The tax
116 13 shall be computed upon the original purchase price.
116 14 22. The use in this state of building materials,
116 15 supplies, or equipment, the sale or use of which is
116 16 not treated as a retail sale or a sale at retail under
116 17 section 423.2, subsection 1.
116 18 23. Exempted from the purchase price of any
116 19 vehicle subject to registration is:
116 20 a. The amount of any cash rebate which is provided
116 21 by a motor vehicle manufacturer to the purchaser of
116 22 the vehicle subject to registration so long as the
116 23 rebate is applied to the purchase price of the
116 24 vehicle.
116 25 b. That in transactions, except those subject to
116 26 paragraph "c", in which tangible personal property is
116 27 traded toward the purchase price of other tangible
116 28 personal property the purchase price is only that
116 29 portion of the purchase price which is payable in
116 30 money to the retailer if the following conditions are
116 31 met:
116 32 (1) The tangible personal property traded to the
116 33 retailer is the type of property normally sold in the
116 34 regular course of the retailer's business.
116 35 (2) The tangible personal property traded to the
116 36 retailer is intended by the retailer to be ultimately
116 37 sold at retail or is intended to be used by the
116 38 retailer or another in the remanufacturing of a like
116 39 item.
116 40 c. In a transaction between persons, neither of
116 41 which is a retailer of vehicles subject to
116 42 registration, in which a vehicle subject to
116 43 registration is traded toward the purchase price of
116 44 another vehicle subject to registration, the amount of
116 45 the trade-in value allowed on the vehicle subject to
116 46 registration traded.

116 47 SUBCHAPTER IV

116 48 UNIFORM SALES AND USE TAX ADMINISTRATION ACT

116 49 Sec. 138. NEW SECTION. 423.7 TITLE.

116 50 This subchapter shall be known and may be cited as
117 1 the "Uniform Sales and Use Tax Administration Act".

117 2 Sec. 139. NEW SECTION. 423.8 LEGISLATIVE FINDING
117 3 AND INTENT.

117 4 The general assembly finds that Iowa should enter
117 5 into an agreement with one or more states to simplify
117 6 and modernize sales and use tax administration in
117 7 order to substantially reduce the burden of tax
117 8 compliance for all sellers and for all types of
117 9 commerce. It is the intent of the general assembly
117 10 that entering into this agreement will lead to
117 11 simplification and modernization of the sales and use
117 12 tax law and not to the imposition of new taxes or an
117 13 increase or decrease in the existing number of
117 14 exemptions, unless such a result is unavoidable under
117 15 the terms of the agreement.

117 16 Sec. 140. NEW SECTION. 423.9 AUTHORITY TO ENTER
117 17 AGREEMENT AND TO REPRESENT THE STATE.

117 18 The director is authorized and directed to enter
117 19 into the streamlined sales and use tax agreement with
117 20 one or more states to simplify and modernize sales and
117 21 use tax administration in order to substantially
117 22 reduce the burden of tax compliance for all sellers
117 23 and for all types of commerce.

117 24 The director is further authorized to take other
117 25 actions reasonably required to implement the
117 26 provisions set forth in this chapter. Other actions

117 27 authorized by this section include, but are not
117 28 limited to, the adoption of rules and the joint
117 29 procurement, with other member states, of goods and
117 30 services in furtherance of the cooperative agreement.
117 31 The director or the director's designee is
117 32 authorized to be a member of the governing board
117 33 established pursuant to the agreement and to represent
117 34 Iowa before that body.

117 35 Sec. 141. NEW SECTION. 423.10 RELATIONSHIP TO
117 36 STATE LAW.

117 37 Entry into the agreement by the director does not
117 38 amend or modify any law of this state. Implementation
117 39 of any condition of the agreement in this state,
117 40 whether adopted before, at, or after membership of
117 41 this state in the agreement, shall be by action of the
117 42 general assembly.

117 43 Sec. 142. NEW SECTION. 423.11 AGREEMENT
117 44 REQUIREMENTS.

117 45 The director shall not enter into the agreement
117 46 unless the agreement requires each state to abide by
117 47 the following requirements:

117 48 1. UNIFORM STATE RATE. The agreement must set
117 49 restrictions to achieve more uniform state rates
117 50 through the following:

- 118 1 a. Limiting the number of state rates.
- 118 2 b. Limiting the application of maximums on the
118 3 amount of state tax that is due on a transaction.
- 118 4 c. Limiting the application of thresholds on the
118 5 application of state tax.
- 118 6 2. UNIFORM STANDARDS. The agreement must
118 7 establish uniform standards for the following:
 - 118 8 a. The sourcing of transactions to taxing
118 9 jurisdictions.
 - 118 10 b. The administration of exempt sales.
 - 118 11 c. The allowances a seller can take for bad debts.
 - 118 12 d. Sales and use tax returns and remittances.
- 118 13 3. UNIFORM DEFINITIONS. The agreement must

118 14 require states to develop and adopt uniform
118 15 definitions of sales and use tax terms. The
118 16 definitions must enable a state to preserve its
118 17 ability to make policy choices not inconsistent with
118 18 the uniform definitions.
118 19 4. CENTRAL REGISTRATION. The agreement must
118 20 provide a central, electronic registration system that
118 21 allows a seller to register to collect and remit sales
118 22 and use taxes for all member states.

118 23 5. NO NEXUS ATTRIBUTION. The agreement must
118 24 provide that registration with the central
118 25 registration system and the collection of sales and
118 26 use taxes in the member states must not be used as a
118 27 factor in determining whether the seller has nexus
118 28 with a state for any tax.

118 29 6. LOCAL SALES AND USE TAXES. The agreement must
118 30 provide for reduction of the burdens of complying with
118 31 local sales and use taxes through the following:

- 118 32 a. Restricting variances between the state and
118 33 local tax bases.
- 118 34 b. Requiring states to administer any sales and
118 35 use taxes levied by local jurisdictions within the
118 36 state so that sellers collecting and remitting these
118 37 taxes must not have to register or file returns with,
118 38 remit funds to, or be subject to independent audits
118 39 from local taxing jurisdictions.
- 118 40 c. Restricting the frequency of changes in the
118 41 local sales and use tax rates and setting effective
118 42 dates for the application of local jurisdictional
118 43 boundary changes to local sales and use taxes.
- 118 44 d. Providing notice of changes in local sales and
118 45 use tax rates and of changes in the boundaries of
118 46 local taxing jurisdictions.

118 47 7. MONETARY ALLOWANCES. The agreement must
118 48 outline any monetary allowances that are to be
118 49 provided by the states to sellers or certified service
118 50 providers.

119 1 8. STATE COMPLIANCE. The agreement must require
119 2 each state to certify compliance with the terms of the
119 3 agreement prior to joining and to maintain compliance,
119 4 under the laws of the member state, with all
119 5 provisions of the agreement while a member.

119 6 9. CONSUMER PRIVACY. The agreement must require
119 7 each state to adopt a uniform policy for certified

119 8 service providers that protects the privacy of
119 9 consumers and maintains the confidentiality of tax
119 10 information.
119 11 10. ADVISORY COUNCILS. The agreement must provide
119 12 for the appointment of an advisory council of private
119 13 sector representatives and an advisory council of
119 14 nonmember state representatives to consult with in the
119 15 administration of the agreement.
119 16 Sec. 143. NEW SECTION. 423.12 LIMITED BINDING
119 17 AND BENEFICIAL EFFECT.

119 18 1. The agreement binds and inures only to the
119 19 benefit of Iowa and the other member states. A
119 20 person, other than a member state, is not an intended
119 21 beneficiary of the agreement. Any benefit to a person
119 22 other than a member state is established by the law of
119 23 Iowa and not by the terms of the agreement.

119 24 2. A person shall not have any cause of action or
119 25 defense under the agreement or by virtue of this
119 26 state's entry into the agreement. A person may not
119 27 challenge, in any action brought under any provision
119 28 of law, any action or inaction by any department,
119 29 agency, or other instrumentality of this state, or any
119 30 political subdivision of this state on the ground that
119 31 the action or inaction is inconsistent with the
119 32 agreement.

119 33 3. A law of this state, or the application of it,
119 34 shall not be declared invalid as to any such person or
119 35 circumstance on the ground that the provision or
119 36 application is inconsistent with the agreement.

119 37 SUBCHAPTER V
119 38 SALES AND USE TAX ACT == ADMINISTRATION OF
119 39 RETAILERS NOT REGISTERED UNDER THE AGREEMENT AND OF
119 40 CONSUMERS OBLIGATED TO PAY USE TAX DIRECTLY
119 41 Sec. 144. NEW SECTION. 423.13 PURPOSE OF THIS
119 42 SUBCHAPTER.

119 43 The purpose of this subchapter is to provide for
119 44 the administration and collection of sales or use tax
119 45 on the part of retailers who are not registered under
119 46 the agreement and for the collection of use tax on the
119 47 part of consumers who are obligated to pay that tax
119 48 directly. Any application of the sections of this
119 49 subchapter to retailers registered under the agreement
119 50 is only by way of incorporation by reference into
120 1 subchapter VI of this chapter.

120 2 Sec. 145. NEW SECTION. 423.14 SALES AND USE TAX
120 3 COLLECTION.

120 4 1. a. Sales tax, other than that described in
120 5 paragraph "c", shall be collected by sellers who are
120 6 retailers or by their agents. Sellers or their agents
120 7 shall, as far as practicable, add the sales tax, or
120 8 the average equivalent thereof, to the sales price or
120 9 charge, less trade-ins allowed and taken and when
120 10 added such tax shall constitute a part of the sales
120 11 price or charge, shall be a debt from consumer or user
120 12 to seller or agent until paid, and shall be
120 13 recoverable at law in the same manner as other debts.

120 14 b. In computing the tax to be collected as the
120 15 result of any transaction, the tax computation must be
120 16 carried to the third decimal place. Whenever the
120 17 third decimal place is greater than four, the tax must
120 18 be rounded up to the next whole cent; whenever the
120 19 third decimal place is four or less, the tax must be
120 20 rounded downward to a whole cent. Sellers may elect
120 21 to compute the tax due on transactions on an item or
120 22 invoice basis. Sellers are not required to use a
120 23 bracket system.

120 24 c. The tax imposed upon those sales of motor
120 25 vehicle fuel which are subject to tax and refund under
120 26 chapter 452A shall be collected by the state treasurer
120 27 by way of deduction from refunds otherwise allowable
120 28 under that chapter. The treasurer shall transfer the
120 29 amount of such deductions from the motor vehicle fuel
120 30 tax fund to the special tax fund.

120 31 2. Use tax shall be collected in the following
120 32 manner:

120 33 a. The tax upon the use of all vehicles subject to
120 34 registration or subject only to the issuance of a
120 35 certificate of title or the tax upon the use of
120 36 manufactured housing shall be collected by the county
120 37 treasurer or the state department of transportation
120 38 pursuant to sections 423.26 and 423.27. The county

120 39 treasurer shall retain one dollar from each tax
120 40 payment collected, to be credited to the county
120 41 general fund.

120 42 b. The tax upon the use of all tangible personal
120 43 property other than that enumerated in paragraph "a",
120 44 which is sold by a seller who is a retailer
120 45 maintaining a place of business in this state, or by
120 46 such other retailer or agent as the director shall
120 47 authorize pursuant to section 423.30, shall be
120 48 collected by the retailer or agent and remitted to the
120 49 department, pursuant to the provisions of paragraph
120 50 "e", and sections 423.24, 423.29, 423.30, 423.32, and
121 1 423.33.

121 2 c. The tax upon the use of all tangible personal
121 3 property not paid pursuant to paragraphs "a" and "b"
121 4 shall be paid to the department directly by any person
121 5 using the property within this state, pursuant to the
121 6 provisions of section 423.34.

121 7 d. The tax imposed on the use of services
121 8 enumerated in section 423.5 shall be collected,
121 9 remitted, and paid to the department of revenue and
121 10 finance in the same manner as use tax on tangible
121 11 personal property is collected, remitted, and paid
121 12 under this subchapter.

121 13 e. All persons obligated by paragraph "a", "b", or
121 14 "d", to collect use tax shall, as far as practicable,
121 15 add that tax, or the average equivalent thereof, to
121 16 the purchase price, less trade-ins allowed and taken,
121 17 and when added the tax shall constitute a part of the
121 18 purchase price. Use tax which this section requires
121 19 to be collected by a retailer and any tax collected
121 20 pursuant to this section by a retailer shall
121 21 constitute a debt owed by the retailer to this state.
121 22 Tax which must be paid directly to the department,
121 23 pursuant to paragraph "c" or "d", is to be computed
121 24 and added by the consumer or user to the purchase
121 25 price in the same manner as this paragraph requires a
121 26 seller to compute and add the tax. The tax shall be a
121 27 debt from the consumer or user to the department until
121 28 paid, and shall be recoverable at law in the same
121 29 manner as other debts.

121 30 Sec. 146. NEW SECTION. 423.15 GENERAL SOURCING
121 31 RULES.

121 32 All sellers obligated to collect Iowa sales or use
121 33 tax shall use the standards set out in this section to
121 34 determine where sales of products occur, excluding
121 35 sales enumerated in section 423.16. These provisions
121 36 apply regardless of the characterization of a product
121 37 as tangible personal property, a digital good, or a
121 38 service, excluding telecommunications services. This
121 39 section only applies to determine a seller's
121 40 obligation to pay or collect and remit a sales or use
121 41 tax with respect to the seller's sale of a product.
121 42 This section does not affect the obligation of a
121 43 purchaser or lessee to remit tax on the use of the
121 44 product to the taxing jurisdictions in which the use
121 45 occurs. A seller's obligation to collect Iowa sales
121 46 tax or Iowa use tax only occurs if the sale is sourced
121 47 to this state. The application of whether Iowa sales
121 48 tax applies to sales sourced to Iowa depends upon
121 49 where the sale is consummated by delivery.

121 50 1. Sales, excluding leases or rentals other than
122 1 leases or rentals set out in subsection 2, of products
122 2 shall be sourced as follows.

122 3 a. When the product is received by the purchaser
122 4 at a business location of the seller, the sale is
122 5 sourced to that business location.

122 6 b. When the product is not received by the
122 7 purchaser at a business location of the seller, the
122 8 sale is sourced to the location where receipt by the
122 9 purchaser or the purchaser's donee, designated as such
122 10 by the purchaser, occurs, including the location
122 11 indicated by instructions for delivery to the
122 12 purchaser or donee, known to the seller.

122 13 c. When paragraphs "a" and "b" do not apply, the
122 14 sale is sourced to the location indicated by an
122 15 address for the purchaser that is available from the
122 16 business records of the seller that are maintained in
122 17 the ordinary course of the seller's business when use
122 18 of this address does not constitute bad faith.

122 19 d. When paragraphs "a", "b", and "c" do not apply,

122 20 the sale is sourced to the location indicated by an
122 21 address for the purchaser obtained during the
122 22 consummation of the sale, including the address of a
122 23 purchaser's payment instrument, if no other address is
122 24 available, when use of this address does not
122 25 constitute bad faith.

122 26 e. When paragraphs "a", "b", "c", and "d" do not
122 27 apply, including the circumstance where the seller is
122 28 without sufficient information to apply the previous
122 29 rules, then the location will be determined by the
122 30 address from which tangible personal property was
122 31 shipped, from which the digital good or the computer
122 32 software delivered electronically was first available
122 33 for transmission by the seller, or from which the
122 34 service was provided disregarding for these purposes
122 35 any location that merely provided the digital transfer
122 36 of the product sold.

122 37 2. The lease or rental of tangible personal
122 38 property, other than property identified in subsection
122 39 3 or section 423.16, shall be sourced as follows:

122 40 a. For a lease or rental that requires recurring
122 41 periodic payments, the first periodic payment is
122 42 sourced the same as a retail sale in accordance with
122 43 the provisions of subsection 1. Periodic payments
122 44 made subsequent to the first payment are sourced to
122 45 the primary property location for each period covered
122 46 by the payment. The primary property location shall
122 47 be as indicated by an address for the property
122 48 provided by the lessee that is available to the lessor
122 49 from its records maintained in the ordinary course of
122 50 business, when use of this address does not constitute
123 1 bad faith. The property location shall not be altered
123 2 by intermittent use at different locations, such as
123 3 use of business property that accompanies employees on
123 4 business trips and service calls.

123 5 b. For a lease or rental that does not require
123 6 recurring periodic payments, the payment is sourced
123 7 the same as a retail sale in accordance with the
123 8 provisions of subsection 1.

123 9 c. This subsection does not affect the imposition
123 10 or computation of sales or use tax on leases or
123 11 rentals based on a lump sum or accelerated basis, or
123 12 on the acquisition of property for lease.

123 13 3. The retail sale, including lease or rental, of
123 14 transportation equipment shall be sourced the same as
123 15 a retail sale in accordance with the provisions of
123 16 subsection 1, notwithstanding the exclusion of lease
123 17 or rental in that subsection. "Transportation
123 18 equipment" means any of the following:

123 19 a. Locomotives or railcars that are utilized for
123 20 the carriage of persons or property in interstate
123 21 commerce.

123 22 b. Trucks and truck=tractors with a gross vehicle
123 23 weight rating of ten thousand one pounds or greater,
123 24 trailers, semitrailers, or passenger buses that meet
123 25 both of the following requirements:

123 26 (1) Are registered through the international
123 27 registration plan.

123 28 (2) Are operated under authority of a carrier
123 29 authorized and certificated by the United States
123 30 department of transportation or another federal
123 31 authority to engage in the carriage of persons or
123 32 property in interstate commerce.

123 33 c. Aircraft that are operated by air carriers
123 34 authorized and certificated by the United States
123 35 department of transportation or another federal or a
123 36 foreign authority to engage in the carriage of persons
123 37 or property in interstate or foreign commerce.

123 38 d. Containers designed for use on and component
123 39 parts attached or secured on the items set forth in
123 40 paragraphs "a" through "c".

123 41 Sec. 147. NEW SECTION. 423.16 TRANSACTIONS TO
123 42 WHICH THE GENERAL SOURCING RULES DO NOT APPLY.

123 43 Section 423.15 does not apply to sales or use taxes
123 44 levied on the following:

123 45 1. The retail sale or transfer of watercraft,
123 46 modular homes, manufactured housing, or mobile homes,
123 47 and the retail sale, excluding lease or rental, of
123 48 motor vehicles, trailers, semitrailers, or aircraft
123 49 that do not qualify as transportation equipment, as
123 50 defined in section 423.15, subsection 3.

124 1 2. The lease or rental of motor vehicles,
124 2 trailers, semitrailers, or aircraft that do not
124 3 qualify as transportation equipment, as defined in
124 4 section 423.15, subsection 3, which shall be sourced
124 5 in accordance with section 423.17.
124 6 3. Transactions to which the multiple points use
124 7 exemption is applicable, which shall be sourced in
124 8 accordance with section 423.18.
124 9 4. Transactions to which direct mail sourcing is
124 10 applicable, which shall be sourced in accordance with
124 11 section 423.19.
124 12 5. Telecommunications services, as set out in
124 13 section 423.20, which shall be sourced in accordance
124 14 with section 423.20, subsection 2.

124 15 Sec. 148. NEW SECTION. 423.17 SOURCING RULES FOR
124 16 VARIOUS TYPES OF LEASED OR RENTED EQUIPMENT WHICH IS
124 17 NOT TRANSPORTATION EQUIPMENT.
124 18 The lease or rental of motor vehicles, trailers,
124 19 semitrailers, or aircraft that do not qualify as
124 20 transportation equipment, as defined in section
124 21 423.15, subsection 3, shall be sourced as follows:
124 22 1. For a lease or rental that requires recurring
124 23 periodic payments, each periodic payment is sourced to
124 24 the primary property location. The primary property
124 25 location shall be as indicated by an address for the
124 26 property provided by the lessee that is available to
124 27 the lessor from its records maintained in the ordinary
124 28 course of business, when use of this address does not
124 29 constitute bad faith. This location shall not be
124 30 altered by intermittent use at different locations.
124 31 2. For a lease or rental that does not require
124 32 recurring periodic payments, the payment is sourced
124 33 the same as a retail sale in accordance with the
124 34 provisions of section 423.15, subsection 1.
124 35 3. This section does not affect the imposition or
124 36 computation of sales or use tax on leases or rentals
124 37 based on a lump sum or accelerated basis, or on the
124 38 acquisition of property for lease.

124 39 Sec. 149. NEW SECTION. 423.18 MULTIPLE POINTS OF
124 40 USE EXEMPTION FORMS.
124 41 A business purchaser that is not a holder of a
124 42 direct pay tax permit pursuant to section 423.36 that
124 43 knows at the time of its purchase of a digital good,
124 44 computer software delivered electronically, or a
124 45 service that the digital good, computer software
124 46 delivered electronically, or service will be
124 47 concurrently available for use in more than one
124 48 jurisdiction shall deliver to the seller in
124 49 conjunction with its purchase a "multiple points of
124 50 use" or "MPU" exemption form disclosing this fact.

125 1 1. Upon receipt of the MPU exemption form, the
125 2 seller is relieved of all obligation to collect, pay,
125 3 or remit the applicable tax and the purchaser shall be
125 4 obligated to collect, pay, or remit the applicable tax
125 5 on a direct pay basis.
125 6 2. A purchaser delivering the MPU exemption form
125 7 may use any reasonable, but consistent and uniform,
125 8 method of apportionment that is supported by the
125 9 purchaser's business records as they exist at the time
125 10 of the consummation of the sale.
125 11 3. The MPU exemption form will remain in effect
125 12 for all future sales by the seller to the purchaser
125 13 except as to the subsequent sale's specific
125 14 apportionment that is governed by the principle of
125 15 subsection 2 and the facts existing at the time of the
125 16 sale until it is revoked in writing.
125 17 4. A holder of a direct pay tax permit under
125 18 section 423.36 shall not be required to deliver an MPU
125 19 exemption form to the seller. A direct pay tax permit
125 20 holder shall follow the provisions of subsection 2 in
125 21 apportioning the tax due on a digital good, computer
125 22 software delivered electronically, or service that
125 23 will be concurrently available for use in more than
125 24 one jurisdiction.

125 25 Sec. 150. NEW SECTION. 423.19 DIRECT MAIL
125 26 SOURCING.
125 27 1. Notwithstanding section 423.15, a purchaser of
125 28 direct mail that is not a holder of a direct pay tax
125 29 permit pursuant to section 423.36 shall provide to the
125 30 seller in conjunction with the purchase either a
125 31 direct mail form or information to show the

125 32 jurisdictions to which the direct mail is delivered to
125 33 recipients.

125 34 a. Upon receipt of the direct mail form, the
125 35 seller is relieved of all obligations to collect, pay,
125 36 or remit the applicable tax and the purchaser is
125 37 obligated to pay or remit the applicable tax on a
125 38 direct pay basis. A direct mail form shall remain in
125 39 effect for all future sales of direct mail by the
125 40 seller to the purchaser until it is revoked in
125 41 writing.

125 42 b. Upon receipt of information from the purchaser
125 43 showing the jurisdictions to which the direct mail is
125 44 delivered to recipients, the seller shall collect the
125 45 tax according to the delivery information provided by
125 46 the purchaser. In the absence of bad faith, the
125 47 seller is relieved of any further obligation to
125 48 collect tax on any transaction where the seller has
125 49 collected tax pursuant to the delivery information
125 50 provided by the purchaser.

126 1 2. If the purchaser of direct mail does not have a
126 2 direct pay tax permit and does not provide the seller
126 3 with either a direct mail form or delivery
126 4 information, as required by subsection 1, the seller
126 5 shall collect the tax according to section 423.15,
126 6 subsection 1, paragraph "e". Nothing in this
126 7 subsection shall limit a purchaser's obligation for
126 8 sales or use tax to any state to which the direct mail
126 9 is delivered.

126 10 3. If a purchaser of direct mail provides the
126 11 seller with documentation of direct pay authority, the
126 12 purchaser shall not be required to provide a direct
126 13 mail form or delivery information to the seller.

126 14 Sec. 151. NEW SECTION. 423.20 TELECOMMUNICATIONS
126 15 SERVICE SOURCING.

126 16 1. As used in this section:

126 17 a. "Air-to-ground radiotelephone service" means a
126 18 radio service, as that term is used in 47 C.F.R. }
126 19 22.99, in which common carriers are authorized to
126 20 offer and provide radio telecommunications service for
126 21 hire to subscribers in aircraft.

126 22 b. "Call-by-call basis" means any method of
126 23 charging for the telecommunications service where the
126 24 price is measured by individual calls.

126 25 c. "Communications channel" means a physical or
126 26 virtual path of communications over which signals are
126 27 transmitted between or among customer channel
126 28 termination points.

126 29 d. "Customer" means the person or entity that
126 30 contracts with the seller of the telecommunications
126 31 service. If the end user of the telecommunications
126 32 service is not the contracting party, the end user of
126 33 the telecommunications service is the customer of the
126 34 telecommunications service, but this sentence only
126 35 applies for the purpose of sourcing sales of the
126 36 telecommunications service under this section.
126 37 "Customer" does not include a reseller of a
126 38 telecommunications service or for mobile
126 39 telecommunications service of a serving carrier under
126 40 an agreement to serve the customer outside the home
126 41 service provider's licensed service area.

126 42 e. "Customer channel termination point" means the
126 43 location where the customer either inputs or receives
126 44 the communications.

126 45 f. "End user" means the person who utilizes the
126 46 telecommunications service. In the case of an entity,
126 47 "end user" means the individual who utilizes the
126 48 service on behalf of the entity.

126 49 g. "Home service provider" means the same as that
126 50 term is defined in the federal Mobile
127 1 Telecommunications Sourcing Act, Pub. L. No. 106=252,
127 2 4 U.S.C. } 124(5).

127 3 h. "Mobile telecommunications service" means the
127 4 same as that term is defined in federal Mobile
127 5 Telecommunications Sourcing Act, Pub. L. No. 106=252,
127 6 4 U.S.C. } 124(7).

127 7 i. "Place of primary use" means the street address
127 8 representative of where the customer's use of the
127 9 telecommunications service primarily occurs, which
127 10 must be the residential street address or the primary
127 11 business street address of the customer. In the case
127 12 of mobile telecommunications service, "place of

127 13 primary use" must be within the licensed service area
127 14 of the home service provider.

127 15 j. "Postpaid calling service" means the
127 16 telecommunications service obtained by making a
127 17 payment on a call-by-call basis either through the use
127 18 of a credit card or payment mechanism such as a bank
127 19 card, travel card, credit card, or debit card, or by
127 20 charge made to a telephone number which is not
127 21 associated with the origination or termination of the
127 22 telecommunications service. A "postpaid calling
127 23 service" includes a telecommunications service that
127 24 would be a prepaid calling service except it is not
127 25 exclusively a telecommunications service.

127 26 k. "Prepaid calling service" means the right to
127 27 access exclusively telecommunications services, which
127 28 must be paid for in advance and which enables the
127 29 origination of calls using an access number or
127 30 authorization code, whether manually or electronically
127 31 dialed, and that is sold in predetermined units or
127 32 dollars of which the amount declines with use in a
127 33 known amount.

127 34 l. "Private communication service" means a
127 35 telecommunications service that entitles the customer
127 36 to exclusive or priority use of a communications
127 37 channel or group of channels between or among
127 38 termination points, regardless of the manner in which
127 39 such channel or channels are connected, and includes
127 40 switching capacity, extension lines, stations, and any
127 41 other associated services that are provided in
127 42 connection with the use of such channel or channels.

127 43 m. "Service address" means one of the following:
127 44 (1) The location of the telecommunications
127 45 equipment to which a customer's call is charged and
127 46 from which the call originates or terminates,
127 47 regardless of where the call is billed or paid.

127 48 (2) If the location in subparagraph (1) is not
127 49 known, "service address" means the origination point
127 50 of the signal of the telecommunications service first
128 1 identified by either the seller's telecommunications
128 2 system or in information received by the seller from
128 3 its service provider, where the system used to
128 4 transport such signals is not that of the seller.

128 5 (3) If the locations in subparagraphs (1) and (2)
128 6 are not known, the "service address" means the
128 7 location of the customer's place of primary use.

128 8 2. Sales of telecommunications services shall be
128 9 sourced in the following manner:

128 10 a. Except for the defined telecommunications
128 11 services in paragraph "c", the sale of
128 12 telecommunications services sold on a call-by-call
128 13 basis shall be sourced to one of the following:
128 14 (1) Each level of taxing jurisdiction where the
128 15 call originates and terminates in that jurisdiction.
128 16 (2) Each level of taxing jurisdiction where the
128 17 call either originates or terminates and in which the
128 18 service address is also located.

128 19 b. Except for the defined telecommunications
128 20 services in paragraph "c", a sale of
128 21 telecommunications services sold on a basis other than
128 22 a call-by-call basis is sourced to the customer's
128 23 place of primary use.

128 24 c. Sale of the following telecommunications
128 25 services shall be sourced to each level of taxing
128 26 jurisdiction as follows:
128 27 (1) A sale of mobile telecommunications services
128 28 other than air-to-ground radiotelephone service or
128 29 prepaid calling service is sourced to the customer's
128 30 place of primary use as required by the federal Mobile
128 31 Telecommunications Sourcing Act.

128 32 (2) A sale of postpaid calling service is sourced
128 33 to the origination point of the telecommunications
128 34 signal as first identified by either of the following:
128 35 (a) The seller's telecommunications system.
128 36 (b) Information received by the seller from its
128 37 service provider, where the system used to transport
128 38 such signals is not that of the seller.

128 39 (3) A sale of prepaid calling service is sourced
128 40 in accordance with section 423.15. However, in the
128 41 case of a sale of mobile telecommunications services
128 42 that is a prepaid telecommunications service, the rule
128 43 provided in section 423.15, subsection 1, paragraph

128 44 "e", shall include as an option the location
128 45 associated with the mobile telephone number.

128 46 (4) A sale of a private telecommunications service
128 47 is sourced as follows:

128 48 (a) Service for a separate charge related to a
128 49 customer channel termination point is sourced to each
128 50 level of jurisdiction in which such customer channel
129 1 termination point is located.

129 2 (b) Service where all customer termination points
129 3 are located entirely within one jurisdiction or level
129 4 of jurisdiction is sourced in such jurisdiction in
129 5 which the customer channel termination points are
129 6 located.

129 7 (c) Service for segments of a channel between two
129 8 customer channel termination points located in
129 9 different jurisdictions and which segments of a
129 10 channel are separately charged is sourced fifty
129 11 percent in each level of jurisdiction in which the
129 12 customer channel termination points are located.

129 13 (d) Service for segments of a channel located in
129 14 more than one jurisdiction or levels of jurisdiction
129 15 and which segments are not separately billed is
129 16 sourced in each jurisdiction based on the percentage
129 17 determined by dividing the number of customer channel
129 18 termination points in such jurisdiction by the total
129 19 number of customer channel termination points.

129 20 Sec. 152. NEW SECTION. 423.21 BAD DEBT
129 21 DEDUCTIONS.

129 22 1. For the purposes of this section, "bad debt"
129 23 means an amount properly calculated pursuant to
129 24 section 166 of the Internal Revenue Code then adjusted
129 25 to exclude financing charges or interest, sales or use
129 26 taxes charged on the purchase price, uncollectible
129 27 amounts on property that remain in the possession of
129 28 the seller until the full purchase price is paid,
129 29 expenses incurred in attempting to collect any debt,
129 30 and repossessed property.

129 31 2. In computing the amount of tax due, a seller
129 32 may deduct bad debts from the total amount upon which
129 33 the tax is calculated for any return. Any deduction
129 34 taken or refund paid which is attributed to bad debts
129 35 shall not include interest.

129 36 3. A seller may deduct bad debts on the return for
129 37 the period during which the bad debt is written off as
129 38 uncollectible in the seller's books and records and is
129 39 eligible to be deducted for federal income tax
129 40 purposes. For purposes of this subsection, a seller
129 41 who is not required to file federal income tax returns
129 42 may deduct a bad debt on a return filed for the period
129 43 in which the bad debt is written off as uncollectible
129 44 in the seller's books and records and would be
129 45 eligible for a bad debt deduction for federal income
129 46 tax purposes if the seller were required to file a
129 47 federal income tax return.

129 48 4. If a deduction is taken for a bad debt and the
129 49 seller subsequently collects the debt in whole or in
129 50 part, the tax on the amount so collected must be paid
130 1 and reported on the return filed for the period in
130 2 which the collection is made.

130 3 5. A seller may obtain a refund of tax on any
130 4 amount of bad debt that exceeds the amount of taxable
130 5 sales within the period allowed for refund claims by
130 6 section 423.47. However, the period allowed for
130 7 refund claims shall be measured from the due date of
130 8 the return on which the bad debt could first be
130 9 claimed.

130 10 6. For the purposes of computing a bad debt
130 11 deduction or reporting a payment received on a
130 12 previously claimed bad debt, any payments made on a
130 13 debt or account shall be applied first to the price of
130 14 the property or service and tax thereon,
130 15 proportionally, and secondly to interest, service
130 16 charges, and any other charges.

130 17 Sec. 153. NEW SECTION. 423.22 TAXATION IN
130 18 ANOTHER STATE.

130 19 If any person who causes tangible personal property
130 20 to be brought into this state or who uses in this
130 21 state services enumerated in section 423.2 has already
130 22 paid a tax in another state in respect to the sale or
130 23 use of the property or the performance of the service,
130 24 or an occupation tax in respect to the property or

130 25 service, in an amount less than the tax imposed by
130 26 subchapter II or III, the provisions of those
130 27 subchapters shall apply, but at a rate measured by the
130 28 difference only between the rate fixed by subchapter
130 29 II or III and the rate by which the previous tax on
130 30 the sale or use, or the occupation tax, was computed.
130 31 If the tax imposed and paid in the other state is
130 32 equal to or more than the tax imposed by those
130 33 subchapters, then a tax is not due in this state on
130 34 the personal property or service.

130 35 Sec. 154. NEW SECTION. 423.23 SELLERS'
130 36 AGREEMENTS.

130 37 Agreements between competing sellers, or the
130 38 adoption of appropriate rules and regulations by
130 39 organizations or associations of sellers to provide
130 40 uniform methods for adding sales or use tax or the
130 41 average equivalent thereof, and which do not involve
130 42 price-fixing agreements otherwise unlawful, are
130 43 expressly authorized and shall be held not in
130 44 violation of chapter 553 or other antitrust laws of
130 45 this state. The director shall cooperate with
130 46 sellers, organizations, or associations in formulating
130 47 agreements and rules.

130 48 Sec. 155. NEW SECTION. 423.24 ABSORBING TAX
130 49 PROHIBITED.

130 50 A seller shall not advertise or hold out or state
131 1 to the public or to any purchaser, consumer, or user,
131 2 directly or indirectly, that the taxes or any parts
131 3 thereof imposed by subchapter II or III will be
131 4 assumed or absorbed by the seller or the taxes will
131 5 not be added to the sales price of the property sold,
131 6 or if added that the taxes or any part thereof will be
131 7 refunded. Any person violating any of the provisions
131 8 of this section within this state is guilty of a
131 9 simple misdemeanor.

131 10 Sec. 156. NEW SECTION. 423.25 DIRECTOR'S POWER
131 11 TO ADOPT RULES.

131 12 The director shall have the power to adopt rules
131 13 for adding the taxes imposed by subchapters II and
131 14 III, or the average equivalents thereof, by providing
131 15 different methods applying uniformly to retailers
131 16 within the same general classification for the purpose
131 17 of enabling the retailers to add and collect, as far
131 18 as practicable, the amounts of those taxes.

131 19 Sec. 157. NEW SECTION. 423.26 VEHICLES SUBJECT
131 20 TO REGISTRATION OR ONLY TO THE ISSUANCE OF TITLE ==
131 21 MANUFACTURED HOUSING.

131 22 The use tax imposed upon the use of vehicles
131 23 subject to registration or subject only to the
131 24 issuance of a certificate of title or imposed upon the
131 25 use of manufactured housing shall be paid by the owner
131 26 of the vehicle or of the manufactured housing to the
131 27 county treasurer or the state department of
131 28 transportation from whom the registration receipt or
131 29 certificate of title is obtained. A registration
131 30 receipt for a vehicle subject to registration or
131 31 certificate of title shall not be issued until the tax
131 32 has been paid. The county treasurer or the state
131 33 department of transportation shall require every
131 34 applicant for a registration receipt for a vehicle
131 35 subject to registration or certificate of title to
131 36 supply information as the county treasurer or the
131 37 director deems necessary as to the time of purchase,
131 38 the purchase price, installed purchase price, and
131 39 other information relative to the purchase of the
131 40 vehicle or manufactured housing. On or before the
131 41 tenth day of each month, the county treasurer or the
131 42 state department of transportation shall remit to the
131 43 department the amount of the taxes collected during
131 44 the preceding month.

131 45 A person who willfully makes a false statement in
131 46 regard to the purchase price of a vehicle subject to
131 47 taxation under this section is guilty of a fraudulent
131 48 practice. A person who willfully makes a false
131 49 statement in regard to the purchase price of such a
131 50 vehicle with the intent to evade the payment of tax
132 1 shall be assessed a penalty of seventy-five percent of
132 2 the amount of tax unpaid and required to be paid on
132 3 the actual purchase price less trade-in allowance.

132 4 Sec. 158. NEW SECTION. 423.27 MOTOR VEHICLE
132 5 LEASE TAX.

132 6 1. The use tax imposed upon the use of leased
132 7 vehicles subject to registration under chapter 321,
132 8 with gross vehicle weight ratings of less than sixteen
132 9 thousand pounds, excluding motorcycles and motorized
132 10 bicycles, which are leased by a lessor licensed
132 11 pursuant to chapter 321F for a period of twelve months
132 12 or more shall be paid by the owner of the vehicle to
132 13 the county treasurer or state department of
132 14 transportation from whom the registration receipt or
132 15 certificate of title is obtained. A registration
132 16 receipt for a vehicle subject to registration or
132 17 issuance of a certificate of title shall not be issued
132 18 until the tax is paid in the initial instance. Tax on
132 19 the lease transaction that does not require titling or
132 20 registration of the vehicle shall be remitted to the
132 21 department. Tax and the reporting of tax due to the
132 22 department shall be remitted on or before fifteen days
132 23 from the last day of the month that the vehicle lease
132 24 tax becomes due. Failure to timely report or remit
132 25 any of the tax when due shall result in a penalty and
132 26 interest being imposed on the tax due pursuant to
132 27 section 423.40, subsection 1, and section 423.42,
132 28 subsection 1.

132 29 2. The amount subject to tax shall be computed on
132 30 each separate lease transaction by taking the total of
132 31 the lease payments, plus the down payment, and
132 32 excluding all of the following:

- 132 33 a. Title fee.
- 132 34 b. Registration fees.
- 132 35 c. Vehicle lease tax pursuant to this section.
- 132 36 d. Federal excise taxes attributable to the sale
132 37 of the vehicle to the owner or to the lease of the
132 38 vehicle by the owner.
- 132 39 e. Optional service or warranty contracts subject
132 40 to tax pursuant to section 423.2, subsection 1.
- 132 41 f. Insurance.
- 132 42 g. Manufacturer's rebate.
- 132 43 h. Refundable deposit.
- 132 44 i. Finance charges, if any, on items listed in
132 45 paragraphs "a" through "h".

132 46 If any or all of the items in paragraphs "a"
132 47 through "i" are excluded from the taxable lease price,
132 48 the owner shall maintain adequate records of the
132 49 amounts of those items. If the parties to a lease
132 50 enter into an agreement providing that the tax imposed
133 1 under this statute is to be paid by the lessee or
133 2 included in the monthly lease payments to be paid by
133 3 the lessee, the total cost of the tax shall not be
133 4 included in the computation of lease price for the
133 5 purpose of taxation under this section. The county
133 6 treasurer, the state department of transportation, or
133 7 the department of revenue and finance shall require
133 8 every applicant for a registration receipt for a
133 9 vehicle subject to tax under this section to supply
133 10 information as the county treasurer or director deems
133 11 necessary as to the date of the lease transaction, the
133 12 lease price, and other information relative to the
133 13 lease of the vehicle.

133 14 3. On or before the tenth day of each month, the
133 15 county treasurer or the state department of
133 16 transportation shall remit to the department the
133 17 amount of the taxes collected during the preceding
133 18 month.

133 19 4. If the lease is terminated prior to the
133 20 termination date contained in the lease agreement, no
133 21 refund shall be allowed for tax previously paid under
133 22 this section, except as provided in section 322G.4.

133 23 Sec. 159. NEW SECTION. 423.28 SALES TAX REPORT
133 24 == DEDUCTION.

133 25 Motor vehicle or trailer dealers, in making their
133 26 reports and returns to the department for the purpose
133 27 of paying the sales tax, shall be permitted to deduct
133 28 all sales prices from retail sales of vehicles subject
133 29 to registration or subject only to the issuance of a
133 30 certificate of title. Sales prices from sales of
133 31 vehicles subject to registration or subject only to
133 32 the issuance of a certificate of title are exempted
133 33 from the sales tax, but, if required by the director,
133 34 the sales prices shall be included in the returns made
133 35 by motor vehicle or trailer dealers under subchapter
133 36 II, and proper deductions taken pursuant to this

133 37 section.

133 38 Sec. 160. NEW SECTION. 423.29 COLLECTIONS BY
133 39 SELLERS.

133 40 Every seller who is a retailer and who is making
133 41 taxable sales of tangible personal property in Iowa
133 42 shall, at the time of selling the property, collect
133 43 the sales tax. Every seller who is a retailer
133 44 maintaining a place of business in this state and
133 45 selling tangible personal property for use in Iowa
133 46 shall, at the time of making the sale, whether within
133 47 or without the state, collect the use tax. Sellers
133 48 required to collect sales or use tax shall give to any
133 49 purchaser a receipt for the tax collected in the
133 50 manner and form prescribed by the director.

134 1 Every seller who is a retailer furnishing taxable
134 2 services in Iowa and every seller who is a retailer
134 3 maintaining a place of business in this state and
134 4 furnishing taxable services in Iowa or services
134 5 outside Iowa if the product or result of the service
134 6 is used in Iowa shall be subject to the provisions of
134 7 the preceding paragraph.

134 8 Sec. 161. NEW SECTION. 423.30 FOREIGN SELLERS
134 9 NOT REGISTERED UNDER THE AGREEMENT.

134 10 The director may, upon application, authorize the
134 11 collection of the use tax by any seller who is a
134 12 retailer not maintaining a place of business within
134 13 this state and not registered under the agreement,
134 14 who, to the satisfaction of the director, furnishes
134 15 adequate security to ensure collection and payment of
134 16 the tax. Such sellers shall be issued, without
134 17 charge, permits to collect tax subject to any
134 18 regulations which the director shall prescribe. When
134 19 so authorized, it shall be the duty of foreign sellers
134 20 to collect the tax upon all tangible personal property
134 21 sold, to the retailer's knowledge, for use within this
134 22 state, in the same manner and subject to the same
134 23 requirements as a retailer maintaining a place of
134 24 business within this state. The authority and permit
134 25 may be canceled when, at any time, the director
134 26 considers the security inadequate, or that tax can
134 27 more effectively be collected from the person using
134 28 property in this state.

134 29 The discretionary power granted in this section is
134 30 extended to apply in the case of foreign retailers
134 31 furnishing services enumerated in section 423.2.

134 32 Sec. 162. NEW SECTION. 423.31 FILING OF SALES
134 33 TAX RETURNS AND PAYMENT OF SALES TAX.

134 34 1. Each person subject to this section and section
134 35 423.36 and in accordance with the provisions of this
134 36 section and section 423.36 shall, on or before the
134 37 last day of the month following the close of each
134 38 calendar quarter during which such person is or has
134 39 become or ceased being subject to the provisions of
134 40 this section and section 423.36, make, sign, and file
134 41 a return for the calendar quarter in the form as may
134 42 be required. Returns shall show information relating
134 43 to sales prices including goods, wares, and services
134 44 converted to the use of such person, the amounts of
134 45 sales prices excluded and exempt from the tax, the
134 46 amounts of sales prices subject to tax, a calculation
134 47 of tax due, and any other information for the period
134 48 covered by the return as may be required. Returns
134 49 shall be signed by the retailer or the retailer's
134 50 authorized agent and must be certified by the retailer
135 1 to be correct in accordance with forms and rules
135 2 prescribed by the director.

135 3 2. Persons required to file, or committed to file
135 4 by reason of voluntary action or by order of the
135 5 department, deposits of taxes due under this
135 6 subchapter shall be entitled to take credit against
135 7 the total quarterly amount of tax due such amount as
135 8 shall have been deposited by such persons during that
135 9 calendar quarter. The balance remaining due after
135 10 such credit for deposits shall be entered on the
135 11 return. However, such person may be granted an
135 12 extension of time not exceeding thirty days for filing
135 13 the quarterly return, upon a proper showing of
135 14 necessity. If an extension is granted, such person
135 15 shall have paid by the twentieth day of the month
135 16 following the close of such quarter ninety percent of
135 17 the estimated tax due.

135 18 3. The sales tax forms prescribed by the director
135 19 shall be referred to as "retailers tax deposit".
135 20 Deposit forms shall be signed by the retailer or the
135 21 retailer's duly authorized agent, and shall be duly
135 22 certified by the retailer or agent to be correct. The
135 23 director may authorize incorporated banks and trust
135 24 companies or other depositories authorized by law
135 25 which are depositories or financial agents of the
135 26 United States, or of this state, to receive any sales
135 27 tax imposed under this chapter, in the manner, at the
135 28 times, and under the conditions the director
135 29 prescribes. The director shall prescribe the manner,
135 30 times, and conditions under which the receipt of the
135 31 tax by those depositories is to be treated as payment
135 32 of the tax to the department.

135 33 4. Every retailer at the time of making any return
135 34 required by this section shall compute and pay to the
135 35 department the tax due for the preceding period. The
135 36 tax on sales prices from the sale or rental of
135 37 tangible personal property under a consumer rental
135 38 purchase agreement as defined in section 537.3604,
135 39 subsection 8, is payable in the tax period of receipt.

135 40 5. Upon making application and receiving approval
135 41 from the director, a parent corporation and its
135 42 affiliated corporations that make retail sales of
135 43 tangible personal property or taxable enumerated
135 44 services may make deposits and file a consolidated
135 45 sales tax return for the affiliated group, pursuant to
135 46 rules adopted by the director. A parent corporation
135 47 and each affiliate corporation that files a
135 48 consolidated return are jointly and severally liable
135 49 for all tax, penalty, and interest found due for the
135 50 tax period for which a consolidated return is filed or
136 1 required to be filed.

136 2 A business required to file a consolidated sales
136 3 tax return shall file a form entitled "schedule of
136 4 consolidated business locations" with its quarterly
136 5 sales tax return that shows the taxpayer's
136 6 consolidated permit number, the permit number for each
136 7 Iowa business location, the state sales tax amount by
136 8 business location, and the amount of state sales tax
136 9 due on goods consumed that are not assigned to a
136 10 specific business location. Consolidated quarterly
136 11 sales tax returns that are not accompanied by the
136 12 schedule of consolidated business locations form are
136 13 considered incomplete and are subject to penalty under
136 14 section 421.27.

136 15 6. If necessary or advisable in order to insure
136 16 the payment of the tax, the director may require
136 17 returns and payment of the tax to be made for other
136 18 than quarterly periods, the provisions of this
136 19 section, or other provision to the contrary
136 20 notwithstanding.

136 21 Sec. 163. NEW SECTION. 423.32 FILING OF USE TAX
136 22 RETURNS AND PAYMENT OF USE TAX.

136 23 1. A retailer maintaining a place of business in
136 24 this state who is required to collect or a user who is
136 25 required to pay the use tax or a foreign retailer
136 26 authorized, pursuant to section 423.30, to collect the
136 27 use tax, shall remit to the department the amount of
136 28 tax on or before the last day of the month following
136 29 each calendar quarterly period. However, a retailer
136 30 who collects or owes more than fifteen hundred dollars
136 31 in use taxes in a month shall deposit with the
136 32 department or in a depository authorized by law and
136 33 designated by the director, the amount collected or
136 34 owed, with a deposit form for the month as prescribed
136 35 by the director.

136 36 a. The deposit form is due on or before the
136 37 twentieth day of the month following the month of
136 38 collection, except a deposit is not required for the
136 39 third month of the calendar quarter, and the total
136 40 quarterly amount, less the amounts deposited for the
136 41 first two months of the quarter, is due with the
136 42 quarterly report on the last day of the month
136 43 following the month of collection. At that time, the
136 44 retailer shall file with the department a return for
136 45 the preceding quarterly period in the form prescribed
136 46 by the director showing the purchase price of the
136 47 tangible personal property sold by the retailer during
136 48 the preceding quarterly period, the use of which is

136 49 subject to the use tax imposed by this chapter, and
136 50 other information the director deems necessary for the
137 1 proper administration of the use tax.
137 2 b. The return shall be accompanied by a remittance
137 3 of the use tax for the period covered by the return.
137 4 If necessary in order to ensure payment to the state
137 5 of the tax, the director may in any or all cases
137 6 require returns and payments to be made for other than
137 7 quarterly periods. The director, upon request and a
137 8 proper showing of necessity, may grant an extension of
137 9 time not to exceed thirty days for making any return
137 10 and payment. Returns shall be signed, in accordance
137 11 with forms and rules prescribed by the director, by
137 12 the retailer or the retailer's authorized agent, and
137 13 shall be certified by the retailer or agent to be
137 14 correct.

137 15 2. If it is reasonably expected, as determined by
137 16 rules prescribed by the director, that a retailer's
137 17 annual sales or use tax liability will not exceed one
137 18 hundred twenty dollars for a calendar year, the
137 19 retailer may request and the director may grant
137 20 permission to the retailer, in lieu of the quarterly
137 21 filing and remitting requirements set out elsewhere in
137 22 this section, to file the return required by and remit
137 23 the sales or use tax due under this section on a
137 24 calendar-year basis. The return and tax are due and
137 25 payable no later than January 31 following each
137 26 calendar year in which the retailer carries on
137 27 business.

137 28 3. The director, in cooperation with the
137 29 department of management, may periodically change the
137 30 filing and remittance thresholds by administrative
137 31 rule if in the best interests of the state and
137 32 taxpayer to do so.

137 33 Sec. 164. NEW SECTION. 423.33 LIABILITY OF
137 34 PERSONS OTHER THAN RETAILERS FOR PAYMENT OF SALES OR
137 35 USE TAX.

137 36 1. LIABILITY OF PURCHASER FOR SALES TAX. If a
137 37 purchaser fails to pay sales tax to the retailer
137 38 required to collect the tax, then in addition to all
137 39 of the rights, obligations, and remedies provided, the
137 40 tax is payable by the purchaser directly to the
137 41 department, and sections 423.31, 423.32, 423.37,
137 42 423.38, 423.39, 423.40, 423.41, and 423.42 apply to
137 43 the purchaser. For failure to pay, the retailer and
137 44 purchaser are liable, unless the circumstances
137 45 described in section 421.60, subsection 2, paragraph
137 46 "m", or section 423.45, subsection 4, paragraph "b" or
137 47 "e", or subsection 5, paragraph "c" or "e", are
137 48 applicable.

137 49 2. IMMEDIATE SUCCESSOR LIABILITY FOR SALES OR USE
137 50 TAX. If a retailer sells the retailer's business or
138 1 stock of goods or quits the business, the retailer
138 2 shall prepare a final return and pay all sales or use
138 3 tax due within the time required by law. The
138 4 immediate successor to the retailer, if any, shall
138 5 withhold a sufficient portion of the purchase price,
138 6 in money or money's worth, to pay the amount of
138 7 delinquent tax, interest, or penalty due and unpaid.
138 8 If the immediate successor of the business or stock of
138 9 goods intentionally fails to withhold the amount due
138 10 from the purchase price as provided in this
138 11 subsection, the immediate successor is personally
138 12 liable for the payment of delinquent taxes, interest,
138 13 and penalty accrued and unpaid on account of the
138 14 operation of the business by the immediate former
138 15 retailer, except when the purchase is made in good
138 16 faith as provided in section 421.28. However, a
138 17 person foreclosing on a valid security interest or
138 18 retaking possession of premises under a valid lease is
138 19 not an "immediate successor" for purposes of this
138 20 section. The department may waive the liability of
138 21 the immediate successor under this subsection if the
138 22 immediate successor exercised good faith in
138 23 establishing the amount of the previous liability.

138 24 3. EVENT SPONSOR'S LIABILITY FOR SALES TAX. A
138 25 person sponsoring a flea market or a craft, antique,
138 26 coin, or stamp show or similar event shall obtain from
138 27 every retailer selling tangible personal property or
138 28 taxable services at the event proof that the retailer
138 29 possesses a valid sales tax permit or secure from the

138 30 retailer a statement, taken in good faith, that
138 31 property or services offered for sale are not subject
138 32 to sales tax. Failure to do so renders a sponsor of
138 33 the event liable for payment of any sales tax,
138 34 interest, and penalty due and owing from any retailer
138 35 selling property or services at the event. Sections
138 36 423.31, 423.32, 423.37, 423.38, 423.39, 423.40,
138 37 423.41, and 423.42 apply to the sponsors. For
138 38 purposes of this subsection, a person sponsoring a
138 39 flea market or a craft, antique, coin, or stamp show
138 40 or similar event does not include an organization
138 41 which sponsors an event less than three times a year
138 42 or a state, county, or district agricultural fair.

138 43 Sec. 165. NEW SECTION. 423.34 LIABILITY OF USER.
138 44 Any person who uses any property or services
138 45 enumerated in section 423.2 upon which the use tax has
138 46 not been paid, either to the county treasurer or to a
138 47 retailer or direct to the department as required by
138 48 this subchapter, shall be liable for the payment of
138 49 tax, and shall on or before the last day of the month
138 50 next succeeding each quarterly period pay the use tax
139 1 upon all property or services used by the person
139 2 during the preceding quarterly period in the manner
139 3 and accompanied by such returns as the director shall
139 4 prescribe. All of the provisions of sections 423.32
139 5 and 423.33 with reference to the returns and payments
139 6 shall be applicable to the returns and payments
139 7 required by this section.

139 8 Sec. 166. NEW SECTION. 423.35 POSTING OF BOND TO
139 9 SECURE PAYMENT.
139 10 The director may, when necessary and advisable in
139 11 order to secure the collection of the sales or use
139 12 tax, authorize any person subject to either tax, and
139 13 any retailer required or authorized to collect those
139 14 taxes pursuant to the provisions of section 423.14, to
139 15 file with the department a bond, issued by a surety
139 16 company authorized to transact business in this state
139 17 and approved by the insurance commissioner as to
139 18 solvency and responsibility, in an amount as the
139 19 director may fix, to secure the payment of any tax,
139 20 interest, or penalties due or which may become due
139 21 from such person. In lieu of a bond, securities
139 22 approved by the director, in an amount which the
139 23 director may prescribe, may be deposited with the
139 24 department, which securities shall be kept in the
139 25 custody of the department and may be sold by the
139 26 director at public or private sale, without notice to
139 27 the depositor, if it becomes necessary to do so in
139 28 order to recover any tax, interest, or penalties due.
139 29 Upon the sale, the surplus, if any, above the amounts
139 30 due under this chapter shall be returned to the person
139 31 who deposited the securities.

139 32 Sec. 167. NEW SECTION. 423.36 PERMITS REQUIRED
139 33 TO COLLECT SALES OR USE TAX == APPLICATIONS ==
139 34 REVOCATION.
139 35 1. A person shall not engage in or transact
139 36 business as a retailer making taxable sales of
139 37 tangible personal property or furnishing services
139 38 within this state or as a retailer making taxable
139 39 sales of tangible personal property or furnishing
139 40 services for use within this state, unless a permit
139 41 has been issued to the retailer under this section,
139 42 except as provided in subsection 6. Every person
139 43 desiring to engage in or transact business as a
139 44 retailer shall file with the department an application
139 45 for a permit to collect sales or use tax. Every
139 46 application for a sales or use tax permit shall be
139 47 made upon a form prescribed by the director and shall
139 48 set forth any information the director may require.
139 49 The application shall be signed by an owner of the
139 50 business if a natural person; in the case of a
140 1 retailer which is an association or partnership, by a
140 2 member or partner; and in the case of a retailer which
140 3 is a corporation, by an executive officer or some
140 4 person specifically authorized by the corporation to
140 5 sign the application, to which shall be attached the
140 6 written evidence of the person's authority.

140 7 2. To collect sales or use tax, the applicant must
140 8 have a permit for each place of business in the state
140 9 of Iowa. The department may deny a permit to an
140 10 applicant who is substantially delinquent in paying a

140 11 tax due, or the interest or penalty on the tax,
140 12 administered by the department at the time of
140 13 application. If the applicant is a partnership, a
140 14 permit may be denied if a partner is substantially
140 15 delinquent in paying any delinquent tax, penalty, or
140 16 interest. If the applicant is a corporation, a permit
140 17 may be denied if any officer having a substantial
140 18 legal or equitable interest in the ownership of the
140 19 corporation owes any delinquent tax, penalty, or
140 20 interest.

140 21 3. The department shall grant and issue to each
140 22 applicant a permit for each place of business in this
140 23 state where sales or use tax is collected. A permit
140 24 is not assignable and is valid only for the person in
140 25 whose name it is issued and for the transaction of
140 26 business at the place designated or at a place of
140 27 relocation within the state if the ownership remains
140 28 the same.

140 29 If an applicant is making sales outside Iowa for
140 30 use in this state or furnishing services outside Iowa,
140 31 the product or result of which will be used in this
140 32 state, that applicant shall be issued one use tax
140 33 permit by the department applicable to these out-of=
140 34 state sales or services.

140 35 4. Permits issued under this section are valid and
140 36 effective until revoked by the department.

140 37 5. If the holder of a permit fails to comply with
140 38 any of the provisions of this subchapter or of
140 39 subchapter II or III or any order or rule of the
140 40 department adopted under those subchapters or is
140 41 substantially delinquent in the payment of a tax
140 42 administered by the department or the interest or
140 43 penalty on the tax, or if the person is a corporation
140 44 and if any officer having a substantial legal or
140 45 equitable interest in the ownership of the corporation
140 46 owes any delinquent tax of the permit=holding
140 47 corporation, or interest or penalty on the tax,
140 48 administered by the department, the director may
140 49 revoke the permit. The director shall send notice by
140 50 mail to a permit holder informing that person of the
141 1 director's intent to revoke the permit and of the
141 2 permit holder's right to a hearing on the matter. If
141 3 the permit holder petitions the director for a hearing
141 4 on the proposed revocation, after giving ten days'
141 5 notice of the time and place of the hearing in
141 6 accordance with section 17A.18, subsection 3, the
141 7 matter may be heard and a decision rendered. The
141 8 director may restore permits after revocation. The
141 9 director shall adopt rules setting forth the period of
141 10 time a retailer must wait before a permit may be
141 11 restored or a new permit may be issued. The waiting
141 12 period shall not exceed ninety days from the date of
141 13 the revocation of the permit.

141 14 6. Sellers who are not regularly engaged in
141 15 selling at retail and do not have a permanent place of
141 16 business, but who are temporarily engaged in selling
141 17 from trucks, portable roadside stands, concessionaires
141 18 at state, county, district, or local fairs, carnivals,
141 19 or the like, shall report and remit the sales tax on a
141 20 temporary basis, under rules the director shall
141 21 provide for the efficient collection of the sales tax.
141 22 This subsection applies to sellers who are temporarily
141 23 engaged in furnishing services.

141 24 Persons engaged in selling tangible personal
141 25 property or furnishing services shall not be required
141 26 to obtain or retain a sales tax permit for a place of
141 27 business at which taxable sales of tangible personal
141 28 property or taxable performance of services will not
141 29 occur.

141 30 7. The provisions of subsection 1, dealing with
141 31 the lawful right of a retailer to transact business,
141 32 as applicable, apply to persons having receipts from
141 33 furnishing services enumerated in section 423.2,
141 34 except that a person holding a permit pursuant to
141 35 subsection 1 shall not be required to obtain any
141 36 separate sales tax permit for the purpose of engaging
141 37 in business involving the services.

141 38 8. a. Except as provided in paragraph "b",
141 39 purchasers, users, and consumers of tangible personal
141 40 property or enumerated services taxed pursuant to
141 41 subchapter II or III of this chapter or chapters 423B

141 42 and 423E may be authorized, pursuant to rules adopted
141 43 by the director, to remit tax owed directly to the
141 44 department instead of the tax being collected and paid
141 45 by the seller. To qualify for a direct pay tax
141 46 permit, the purchaser, user, or consumer must accrue a
141 47 tax liability of more than four thousand dollars in
141 48 tax under subchapters II and III in a semimonthly
141 49 period and make deposits and file returns pursuant to
141 50 section 423.31. This authority shall not be granted
142 1 or exercised except upon application to the director
142 2 and then only after issuance by the director of a
142 3 direct pay tax permit.

142 4 b. The granting of a direct pay tax permit is not
142 5 authorized for any of the following:

142 6 (1) Taxes imposed on the sales, furnishing, or
142 7 service of gas, electricity, water, heat, pay
142 8 television service, and communication service.

142 9 (2) Taxes imposed under sections 423.26 and 423.27
142 10 and chapter 423C.

142 11 Sec. 168. NEW SECTION. 423.37 FAILURE TO FILE
142 12 SALES OR USE TAX RETURNS == INCORRECT RETURNS.

142 13 1. As soon as practicable after a return is filed
142 14 and in any event within three years after the return
142 15 is filed, the department shall examine it, assess and
142 16 determine the tax due if the return is found to be
142 17 incorrect, and give notice to the person liable for
142 18 the tax of the assessment and determination as
142 19 provided in subsection 2. The period for the
142 20 examination and determination of the correct amount of
142 21 tax is unlimited in the case of a false or fraudulent
142 22 return made with the intent to evade tax or in the
142 23 case of a failure to file a return.

142 24 2. If a return required by this subchapter is not
142 25 filed, or if a return when filed is incorrect or
142 26 insufficient and the maker fails to file a corrected
142 27 or sufficient return within twenty days after the same
142 28 is required by notice from the department, the
142 29 department shall determine the amount of tax due from
142 30 information as the department may be able to obtain
142 31 and, if necessary, may estimate the tax on the basis
142 32 of external indices, such as number of employees of
142 33 the person concerned, rentals paid by the person,
142 34 stock on hand, or other factors. The department shall
142 35 give notice of the determination to the person liable
142 36 for the tax. The determination shall fix the tax
142 37 unless the person against whom it is assessed shall,
142 38 within sixty days after the giving of notice of the
142 39 determination, apply to the director for a hearing or
142 40 unless the taxpayer contests the determination by
142 41 paying the tax, interest, and penalty and timely
142 42 filing a claim for refund. At the hearing evidence
142 43 may be offered to support the determination or to
142 44 prove that it is incorrect. After the hearing the
142 45 director shall give notice of the decision to the
142 46 person liable for the tax.

142 47 3. The three-year period of limitation provided in
142 48 subsection 1 may be extended by a taxpayer by signing
142 49 a waiver agreement form to be provided by the
142 50 department. The agreement shall stipulate the period
143 1 of extension and the tax period to which the extension
143 2 applies. The agreement shall also provide that a
143 3 claim for refund may be filed by the taxpayer at any
143 4 time during the period of extension.

143 5 Sec. 169. NEW SECTION. 423.38 JUDICIAL REVIEW.

143 6 1. Judicial review of actions of the director may
143 7 be sought in accordance with the terms of the Iowa
143 8 administrative procedure Act.

143 9 2. For cause and upon a showing by the director
143 10 that collection of the tax in dispute is in doubt, the
143 11 court may order the petitioner to file with the clerk
143 12 a bond for the use of the respondent, with sureties
143 13 approved by the clerk, in the amount of tax appealed
143 14 from, conditioned that the petitioner shall perform
143 15 the orders of the court.

143 16 3. An appeal may be taken by the taxpayer or the
143 17 director to the supreme court of this state
143 18 irrespective of the amount involved.

143 19 Sec. 170. NEW SECTION. 423.39 SERVICE OF
143 20 NOTICES.

143 21 1. A notice authorized or required under this
143 22 subchapter may be given by mailing the notice to the

143 23 person for whom it is intended, addressed to that
143 24 person at the address given in the last return filed
143 25 by the person pursuant to this subchapter, or if no
143 26 return has been filed, then to any address obtainable.
143 27 The mailing of the notice is presumptive evidence of
143 28 the receipt of the notice by the person to whom
143 29 addressed. Any period of time which is determined
143 30 according to this subchapter by the giving of notice
143 31 commences to run from the date of mailing of the
143 32 notice.

143 33 2. The provisions of the Code relative to the
143 34 limitation of time for the enforcement of a civil
143 35 remedy shall not apply to any proceeding or action
143 36 taken to levy, appraise, assess, determine, or enforce
143 37 the collection of any tax or penalty provided by this
143 38 chapter.

143 39 Sec. 171. NEW SECTION. 423.40 PENALTIES ==
143 40 OFFENSES == LIMITATION.

143 41 1. In addition to the sales or use tax or
143 42 additional sales or use tax, the taxpayer shall pay a
143 43 penalty as provided in section 421.27. The taxpayer
143 44 shall also pay interest on the sales or use tax or
143 45 additional sales or use tax at the rate in effect
143 46 under section 421.7 for each month counting each
143 47 fraction of a month as an entire month, computed from
143 48 the date the semimonthly or monthly tax deposit form
143 49 or return was required to be filed. The penalty and
143 50 interest shall be paid to the department and disposed
144 1 of in the same manner as other receipts under this
144 2 subchapter. Unpaid penalties and interest may be
144 3 enforced in the same manner as the taxes imposed by
144 4 this chapter.

144 5 2. a. Any person who knowingly sells tangible
144 6 personal property, tickets or admissions to places of
144 7 amusement and athletic events, or gas, water,
144 8 electricity, or communication service at retail, or
144 9 engages in the furnishing of services enumerated in
144 10 section 423.2, in this state without procuring a
144 11 permit to collect tax, as provided in section 423.36,
144 12 or who violates section 423.24 and the officers of any
144 13 corporation who so act are guilty of a serious
144 14 misdemeanor.

144 15 b. A person who knowingly sells tangible personal
144 16 property, tickets or admissions to places of amusement
144 17 and athletic events, or gas, water, electricity, or
144 18 communication service at retail, or engages in the
144 19 furnishing of services enumerated in section 423.2, in
144 20 this state after the person's sales tax permit has
144 21 been revoked and before it has been restored as
144 22 provided in section 423.36, subsection 5, and the
144 23 officers of any corporation who so act are guilty of
144 24 an aggravated misdemeanor.

144 25 3. A person who willfully attempts in any manner
144 26 to evade any tax imposed by this chapter or the
144 27 payment of the tax or a person who makes or causes to
144 28 be made a false or fraudulent semimonthly or monthly
144 29 tax deposit form or return with intent to evade any
144 30 tax imposed by subchapter II or III or the payment of
144 31 the tax is guilty of a class "D" felony.

144 32 4. The certificate of the director to the effect
144 33 that a tax has not been paid, that a return has not
144 34 been filed, or that information has not been supplied
144 35 pursuant to the provisions of this subchapter shall be
144 36 prima facie evidence thereof.

144 37 5. A person required to pay sales or use tax, or
144 38 to make, sign, or file a tax deposit form or return or
144 39 supplemental return, who willfully makes a false or
144 40 fraudulent tax deposit form or return, or willfully
144 41 fails to pay at least ninety percent of the tax or
144 42 willfully fails to make, sign, or file the tax deposit
144 43 form or return, at the time required by law, is guilty
144 44 of a fraudulent practice.

144 45 6. A prosecution for an offense specified in this
144 46 section shall be commenced within six years after its
144 47 commission.

144 48 Sec. 172. NEW SECTION. 423.41 BOOKS ==
144 49 EXAMINATION.

144 50 Every retailer required or authorized to collect
145 1 taxes imposed by this chapter and every person using
145 2 in this state tangible personal property, services, or
145 3 the product of services shall keep records, receipts,

145 4 invoices, and other pertinent papers as the director
145 5 shall require, in the form that the director shall
145 6 require, for as long as the director has the authority
145 7 to examine and determine tax due. The director or any
145 8 duly authorized agent of the department may examine
145 9 the books, papers, records, and equipment of any
145 10 person either selling tangible personal property or
145 11 services or liable for the tax imposed by this
145 12 chapter, and investigate the character of the business
145 13 of any person in order to verify the accuracy of any
145 14 return made, or if a return was not made by the
145 15 person, ascertain and determine the amount due under
145 16 this chapter. These books, papers, and records shall
145 17 be made available within this state for examination
145 18 upon reasonable notice when the director deems it
145 19 advisable and so orders. The preceding requirements
145 20 shall likewise apply to users and persons furnishing
145 21 services enumerated in section 423.2.

145 22 Sec. 173. NEW SECTION. 423.42 STATUTES
145 23 APPLICABLE.

145 24 1. The director shall administer the taxes imposed
145 25 by subchapters II and III in the same manner and
145 26 subject to all the provisions of, and all of the
145 27 powers, duties, authority, and restrictions contained
145 28 in, section 422.25, subsection 4, section 422.30, and
145 29 sections 422.67 through 422.75.

145 30 2. All the provisions of section 422.26 shall
145 31 apply in respect to the taxes and penalties imposed by
145 32 subchapters II and III and this subchapter, except
145 33 that, as applied to any tax imposed by subchapters II
145 34 and III, the lien provided in section 422.26 shall be
145 35 prior and paramount over all subsequent liens upon any
145 36 personal property within this state, or right to such
145 37 personal property, belonging to the taxpayer without
145 38 the necessity of recording as provided in section
145 39 422.26. The requirements for recording shall, as
145 40 applied to the taxes imposed by subchapters II and
145 41 III, apply only to the liens upon real property. When
145 42 requested to do so by any person from whom a taxpayer
145 43 is seeking credit, or with whom the taxpayer is
145 44 negotiating the sale of any personal property, or by
145 45 any other person having a legitimate interest in such
145 46 information, the director shall, upon being satisfied
145 47 that such a situation exists, inform that person as to
145 48 the amount of unpaid taxes due by such taxpayer under
145 49 the provisions of subchapters II and III. The giving
145 50 of this information under these circumstances shall
146 1 not be deemed a violation of section 422.72 as applied
146 2 to subchapters II and III.

146 3 Sec. 174. NEW SECTION. 423.43 DEPOSIT OF REVENUE
146 4 == APPROPRIATIONS.

146 5 Except as otherwise provided in section 312.2,
146 6 subsection 15, all revenues derived from the use tax
146 7 on motor vehicles, trailers, and motor vehicle
146 8 accessories and equipment as collected pursuant to
146 9 sections 423.26 and 423.27 shall be deposited and
146 10 credited to the road use tax fund and shall be used
146 11 exclusively for the construction, maintenance, and
146 12 supervision of public highways.

146 13 1. Notwithstanding any provision of this section
146 14 which provides that all revenues derived from the use
146 15 tax on motor vehicles, trailers, and motor vehicle
146 16 accessories and equipment as collected pursuant to
146 17 sections 423.26 and 423.27 shall be deposited and
146 18 credited to the road use tax fund, eighty percent of
146 19 the revenues shall be deposited and credited as
146 20 follows:

146 21 a. Twenty-five percent of all such revenue, up to
146 22 a maximum of four million two hundred fifty thousand
146 23 dollars per quarter, shall be deposited into and
146 24 credited to the Iowa comprehensive petroleum
146 25 underground storage tank fund created in section
146 26 455G.3, and the moneys so deposited are a continuing
146 27 appropriation for expenditure under chapter 455G, and
146 28 moneys so appropriated shall not be used for other
146 29 purposes.

146 30 b. Any such revenues remaining shall be credited
146 31 to the road use tax fund.

146 32 2. Notwithstanding any other provision of this
146 33 section that provides that all revenue derived from
146 34 the use tax on motor vehicles, trailers, and motor

146 35 vehicle accessories and equipment as collected
146 36 pursuant to section 423.26 shall be deposited and
146 37 credited to the road use tax fund, twenty percent of
146 38 the revenues shall be credited and deposited as
146 39 follows: one-half to the road use tax fund and one=
146 40 half to the primary road fund to be used for the
146 41 commercial and industrial highway network.

146 42 3. For the fiscal year beginning July 1, 2004, and
146 43 each subsequent fiscal year, revenues arising under
146 44 the operation of this chapter which are derived from
146 45 the tax imposed on remote sales shall be deposited
146 46 into the remote sales tax fund created in section
146 47 423.60 in an amount equal to the excess of the
146 48 revenues derived from the tax imposed on remote sales
146 49 during the fiscal year over the revenues derived from
146 50 the tax imposed on remote sales during the fiscal year
147 1 beginning July 1, 2003.

147 2 4. All other revenue arising under the operation
147 3 of this chapter shall be credited to the general fund
147 4 of the state.

147 5 Sec. 175. NEW SECTION. 423.44 REIMBURSEMENT FOR
147 6 PRIMARY ROAD FUND.

147 7 From moneys deposited into the road use tax fund,
147 8 the department may credit to the primary road fund any
147 9 amount of revenues derived from the use tax on motor
147 10 vehicles, trailers, and motor vehicle accessories and
147 11 equipment as collected pursuant to sections 423.26 and
147 12 423.27 to the extent necessary to reimburse that fund
147 13 for the expenditures not otherwise eligible to be made
147 14 from the primary road fund, which are made for
147 15 repairing, improving, and maintaining bridges over the
147 16 rivers bordering the state. Expenditures for those
147 17 portions of bridges within adjacent states may be
147 18 included when they are made pursuant to an agreement
147 19 entered into under section 313.63, 313A.34, or 314.10.

147 20 Sec. 176. NEW SECTION. 423.45 REFUNDS ==
147 21 EXEMPTION CERTIFICATES.

147 22 1. If an amount of tax represented by a retailer
147 23 to a consumer or user as constituting tax due is
147 24 computed upon a sales price that is not taxable or the
147 25 amount represented is in excess of the actual taxable
147 26 amount and the amount represented is actually paid by
147 27 the consumer or user to the retailer, the excess
147 28 amount of tax paid shall be returned to the consumer
147 29 or user upon notification to the retailer by the
147 30 department that an excess payment exists.

147 31 2. If an amount of tax represented by a retailer
147 32 to a consumer or user as constituting tax due is
147 33 computed upon a sales price that is not taxable or the
147 34 amount represented is in excess of the actual taxable
147 35 amount and the amount represented is actually paid by
147 36 the consumer or user to the retailer, the excess
147 37 amount of tax paid shall be returned to the consumer
147 38 or user upon proper notification to the retailer by
147 39 the consumer or user that an excess payment exists.
147 40 "Proper" notification is written notification which
147 41 allows a retailer at least sixty days to respond and
147 42 which contains enough information to allow a retailer
147 43 to determine the validity of a consumer's or user's
147 44 claim that an excess amount of tax has been paid. No
147 45 cause of action shall accrue against a retailer for
147 46 excess tax paid until sixty days after proper notice
147 47 has been given the retailer by the consumer or user.

147 48 3. In the circumstances described in subsections 1
147 49 and 2, a retailer has the option to either return any
147 50 excess amount of tax paid to a consumer or user, or to
148 1 remit the amount which a consumer or user has paid to
148 2 the retailer to the department.

148 3 4. a. The department shall issue or the seller
148 4 may separately provide exemption certificates in the
148 5 form prescribed by the director, including
148 6 certificates not made of paper, which conform to the
148 7 requirements of paragraph "c", to assist retailers in
148 8 properly accounting for nontaxable sales of tangible
148 9 personal property or services to purchasers for a
148 10 nontaxable purpose. The department shall also allow
148 11 the use of exemption certificates for those
148 12 circumstances in which a sale is taxable but the
148 13 seller is not obligated to collect tax from the buyer.

148 14 b. The sales tax liability for all sales of
148 15 tangible personal property and all sales of services

148 16 is upon the seller and the purchaser unless the seller
148 17 takes in good faith from the purchaser a valid
148 18 exemption certificate stating under penalty of perjury
148 19 that the purchase is for a nontaxable purpose and is
148 20 not a retail sale as defined in section 423.1, or the
148 21 seller is not obligated to collect tax due, or unless
148 22 the seller takes a fuel exemption certificate pursuant
148 23 to subsection 5. If the tangible personal property or
148 24 services are purchased tax free pursuant to a valid
148 25 exemption certificate which is taken in good faith by
148 26 the seller, and the tangible personal property or
148 27 services are used or disposed of by the purchaser in a
148 28 nonexempt manner, the purchaser is solely liable for
148 29 the taxes and shall remit the taxes directly to the
148 30 department and sections 423.31, 423.32, 423.37,
148 31 423.38, 423.39, 423.40, 423.41, and 423.42 shall apply
148 32 to the purchaser.

148 33 c. A valid exemption certificate is an exemption
148 34 certificate which is complete and correct according to
148 35 the requirements of the director.

148 36 d. A valid exemption certificate is taken in good
148 37 faith by the seller when the seller has exercised that
148 38 caution and diligence which honest persons of ordinary
148 39 prudence would exercise in handling their own business
148 40 affairs, and includes an honesty of intention and
148 41 freedom from knowledge of circumstances which ought to
148 42 put one upon inquiry as to the facts. In order for a
148 43 seller to take a valid exemption certificate in good
148 44 faith, the seller must exercise reasonable prudence to
148 45 determine the facts supporting the valid exemption
148 46 certificate, and if any facts upon such certificate
148 47 would lead a reasonable person to further inquiry,
148 48 such inquiry must be made with an honest intent to
148 49 discover the facts.

148 50 e. If the circumstances change and as a result the
149 1 tangible personal property or services are used or
149 2 disposed of by the purchaser in a nonexempt manner or
149 3 the purchaser becomes obligated to pay the tax, the
149 4 purchaser is liable solely for the taxes and shall
149 5 remit the taxes directly to the department in
149 6 accordance with this subsection.

149 7 5. a. The department shall issue or the seller
149 8 may separately provide fuel exemption certificates in
149 9 the form prescribed by the director.

149 10 b. For purposes of this subsection:

149 11 (1) "Fuel" includes gas, electricity, water, heat,
149 12 steam, and any other tangible personal property
149 13 consumed in creating heat, power, or steam.

149 14 (2) "Fuel consumed in processing" means fuel used
149 15 or consumed for processing including grain drying, for
149 16 providing heat or cooling for livestock buildings or
149 17 for greenhouses or buildings or parts of buildings
149 18 dedicated to the production of flowering, ornamental,
149 19 or vegetable plants intended for sale in the ordinary
149 20 course of business, for use in aquaculture production,
149 21 or for generating electric current, or in implements
149 22 of husbandry engaged in agricultural production.

149 23 (3) "Fuel exemption certificate" means an
149 24 exemption certificate given by the purchaser under
149 25 penalty of perjury to assist retailers in properly
149 26 accounting for nontaxable sales of fuel consumed in
149 27 processing.

149 28 (4) "Substantial change" means a change in the use
149 29 or disposition of tangible personal property and
149 30 services by the purchaser such that the purchaser pays
149 31 less than ninety percent of the purchaser's actual
149 32 sales tax liability. A change includes a misstatement
149 33 of facts in an application made pursuant to paragraph
149 34 "d" or in a fuel exemption certificate.

149 35 c. The seller may accept a completed fuel
149 36 exemption certificate, as prepared by the purchaser,
149 37 for three years unless the purchaser files a new
149 38 completed exemption certificate. If the fuel is
149 39 purchased tax free pursuant to a fuel exemption
149 40 certificate which is taken by the seller, and the fuel
149 41 is used or disposed of by the purchaser in a nonexempt
149 42 manner, the purchaser is solely liable for the taxes,
149 43 and shall remit the taxes directly to the department
149 44 and sections 423.31, 423.32, 423.37, 423.38, 423.39,
149 45 423.40, 423.41, and 423.42 shall apply to the
149 46 purchaser.

149 47 d. The purchaser may apply to the department for
149 48 its review of the fuel exemption certificate. In this
149 49 event, the department shall review the fuel exemption
149 50 certificate within twelve months from the date of
150 1 application and determine the correct amount of the
150 2 exemption. If the amount determined by the department
150 3 is different than the amount that the purchaser claims
150 4 is exempt, the department shall promptly notify the
150 5 purchaser of the determination. Failure of the
150 6 department to make a determination within twelve
150 7 months from the date of application shall constitute a
150 8 determination that the fuel exemption certificate is
150 9 correct as submitted. A determination of exemption by
150 10 the department is final unless the purchaser appeals
150 11 to the director for a revision of the determination
150 12 within sixty days after the date of the notice of
150 13 determination. The director shall grant a hearing,
150 14 and upon the hearing, the director shall determine the
150 15 correct exemption and notify the purchaser of the
150 16 decision by mail. The decision of the director is
150 17 final unless the purchaser seeks judicial review of
150 18 the director's decision under section 423.38 within
150 19 sixty days after the date of the notice of the
150 20 director's decision. Unless there is a substantial
150 21 change, the department shall not impose penalties
150 22 pursuant to section 423.40 both retroactively to
150 23 purchases made after the date of application and
150 24 prospectively until the department gives notice to the
150 25 purchaser that a tax or additional tax is due, for
150 26 failure to remit any tax due which is in excess of a
150 27 determination made under this section. A
150 28 determination made by the department pursuant to this
150 29 subsection does not constitute an audit for purposes
150 30 of section 423.37.

150 31 e. If the circumstances change and the fuel is
150 32 used or disposed of by the purchaser in a nonexempt
150 33 manner, the purchaser is solely liable for the taxes
150 34 and shall remit the taxes directly to the department
150 35 in accordance with paragraph "c".

150 36 f. The purchaser shall attach documentation to the
150 37 fuel exemption certificate which is reasonably
150 38 necessary to support the exemption for fuel consumed
150 39 in processing. If the purchaser files a new exemption
150 40 certificate with the seller, documentation shall not
150 41 be required if the purchaser previously furnished the
150 42 seller with this documentation and substantial change
150 43 has not occurred since that documentation was
150 44 furnished or if fuel consumed in processing is
150 45 separately metered and billed by the seller.

150 46 6. Nothing in this section authorizes any cause of
150 47 action by any person to recover sales or use taxes
150 48 directly from the state or extends any person's time
150 49 to seek a refund of sales or use taxes which have been
150 50 collected and remitted to the state.

151 1 Sec. 177. NEW SECTION. 423.46 RATE AND BASE
151 2 CHANGES.

151 3 The department shall make a reasonable effort to
151 4 provide sellers with as much advance notice as
151 5 practicable of a rate change and to notify sellers of
151 6 legislative changes in the tax base and amendments to
151 7 sales and use tax rules. Failure of a seller to
151 8 receive notice or failure of this state to provide
151 9 notice or limit the effective date of a rate change
151 10 shall not relieve the seller of its obligation to
151 11 collect sales or use taxes for this state.

151 12 Sec. 178. NEW SECTION. 423.47 REFUNDS AND
151 13 CREDITS.

151 14 If it shall appear that, as a result of mistake, an
151 15 amount of tax, penalty, or interest has been paid
151 16 which was not due under the provisions of this
151 17 chapter, such amount shall be credited against any tax
151 18 due, or to become due, on the books of the department
151 19 from the person who made the erroneous payment, or
151 20 such amount shall be refunded to such person by the
151 21 department. A claim for refund or credit that has not
151 22 been filed with the department within three years
151 23 after the tax payment for which a refund or credit is
151 24 claimed became due, or one year after such tax payment
151 25 was made, whichever time is the later, shall not be
151 26 allowed by the director.

151 27 SUBCHAPTER VI

151 28 SALES AND USE TAX ACT == ADMINISTRATION OF
151 29 RETAILERS REGISTERED VOLUNTARILY UNDER THE
151 30 AGREEMENT
151 31 Sec. 179. NEW SECTION. 423.48 RESPONSIBILITIES
151 32 AND RIGHTS OF SELLERS REGISTERED UNDER THE AGREEMENT.
151 33 1. By registering under the agreement, the seller
151 34 agrees to collect and remit sales and use taxes for
151 35 all its taxable Iowa sales. Iowa's withdrawal from
151 36 the agreement or revocation of its membership in the
151 37 agreement shall not relieve a seller from its
151 38 responsibility to remit taxes previously collected on
151 39 behalf of this state.
151 40 2. The following provisions apply to any seller
151 41 who registers under the agreement:
151 42 a. The seller may register on-line.
151 43 b. Registration under the agreement and the
151 44 collection of Iowa sales and use taxes shall not be
151 45 used as factors in determining whether the seller has
151 46 nexus with Iowa for any tax.
151 47 c. If registered under the agreement with any
151 48 other member state, the seller is considered to be
151 49 registered in Iowa.
151 50 d. The seller is not required to pay registration
152 1 fees or other charges.
152 2 e. A written signature from the seller is not
152 3 required.
152 4 f. The seller may register by way of an agent.
152 5 The agent's appointment shall be in writing and
152 6 submitted to the department if requested by the
152 7 department.
152 8 g. The seller may cancel its registration at any
152 9 time under procedures adopted by the governing board
152 10 established pursuant to the agreement. Cancellation
152 11 does not relieve the seller of its liability for
152 12 remitting any Iowa taxes collected.
152 13 3. The following additional responsibilities and
152 14 rights apply to model sellers:
152 15 a. A model 1 seller's obligation to calculate,
152 16 collect, and remit sales and use taxes shall be
152 17 performed by its certified service provider, except
152 18 for the seller's obligation to remit tax on its own
152 19 purchases. As the seller's agent, the certified
152 20 service provider is liable for its model 1 seller's
152 21 sales and use tax due Iowa on all sales transactions
152 22 it processes for the seller except as set out in this
152 23 section. A seller that contracts with a certified
152 24 service provider is not liable to the state for sales
152 25 or use tax due on transactions processed by the
152 26 certified service provider unless the seller
152 27 misrepresents the types of items or services it sells
152 28 or commits fraud. In the absence of probable cause to
152 29 believe that the seller has committed fraud or made a
152 30 material misrepresentation, the seller is not subject
152 31 to audit on the transactions processed by the
152 32 certified service provider. A model 1 seller is
152 33 subject to audit for transactions not processed by the
152 34 certified service provider. The director is
152 35 authorized to perform a system check of the model 1
152 36 seller and review the seller's procedures to determine
152 37 if the certified service provider's system is
152 38 functioning properly and the extent to which the
152 39 seller's transactions are being processed by the
152 40 certified service provider.
152 41 b. A model 2 seller shall calculate the amount of
152 42 tax due on a transaction by the use of a certified
152 43 automated system, but shall collect and remit tax on
152 44 its own sales. A person that provides a certified
152 45 automated system is responsible for the proper
152 46 functioning of that system and is liable to this state
152 47 for underpayments of tax attributable to errors in the
152 48 functioning of the certified automated system. A
152 49 seller that uses a certified automated system remains
152 50 responsible and is liable to the state for reporting
153 1 and remitting tax.
153 2 c. A model 3 seller shall use its own proprietary
153 3 automated system to calculate tax due and collect and
153 4 remit tax on its own sales. A model 3 seller is
153 5 liable for the failure of its proprietary automated
153 6 system to meet the applicable performance standard.
153 7 Sec. 180. NEW SECTION. 423.49 RETURNS.
153 8 1. All model 1, 2, or 3 sellers are subject to all

153 9 of the following return requirements:

153 10 a. The seller is required to file only one return
153 11 per month for this state and for all taxing
153 12 jurisdictions within this state.

153 13 b. The date for filing returns shall be determined
153 14 under rules adopted by the director. However, in no
153 15 case shall the return be due earlier than the
153 16 twentieth day of the following month.

153 17 c. The director shall request additional
153 18 information returns. These returns shall not be
153 19 required more frequently than every six months.

153 20 2. Any registered seller which does not have a
153 21 legal obligation to register in this state and is not
153 22 a model 1, 2, or 3 seller is subject to all of the
153 23 following return requirements:

153 24 a. The seller is required to file a return within
153 25 one year of the month of initial registration and
153 26 shall file a return on an annual basis in succeeding
153 27 years.

153 28 b. In addition to the return required in paragraph
153 29 "a", if the seller accumulates more than one thousand
153 30 dollars in total state and local tax, the seller is
153 31 required to file a return in the following month.

153 32 c. The format of the return and the due date of
153 33 the initial return and the annual return shall be
153 34 determined under rules adopted by the department.

153 35 Sec. 181. NEW SECTION. 423.50 REMITTANCE OF
153 36 FUNDS.

153 37 1. Only one remittance of tax per return is
153 38 required except as provided in this subsection.
153 39 Sellers that collect more than thirty thousand dollars
153 40 in sales and use taxes for this state during the
153 41 preceding calendar year shall be required to make
153 42 additional remittances as required under rules adopted
153 43 by the director. The filing of a return is not
153 44 required with an additional remittance.

153 45 2. All remittances shall be remitted
153 46 electronically.

153 47 3. Electronic payments may be made either by
153 48 automated clearinghouse credit or automated
153 49 clearinghouse debit. Any data accompanying a
153 50 remittance must be formatted using uniform tax type
154 1 and payment codes approved by the governing board
154 2 established pursuant to the agreement. An alternative
154 3 method for making same-day payments shall be
154 4 determined under rules adopted by the director.

154 5 4. If a due date falls on a legal banking holiday
154 6 in this state, the taxes are due on the succeeding
154 7 business day.

154 8 Sec. 182. NEW SECTION. 423.51 ADMINISTRATION OF
154 9 EXEMPTIONS.

154 10 1. The following provisions shall apply when a
154 11 purchaser claims an exemption:

154 12 a. The seller shall obtain identifying information
154 13 of the purchaser and the reason for claiming a tax
154 14 exemption at the time of the purchase as determined by
154 15 the member states acting jointly.

154 16 b. A purchaser is not required to provide a
154 17 signature to claim an exemption from tax unless a
154 18 paper certificate is used.

154 19 c. The seller shall use the standard form for
154 20 claiming an exemption electronically as adopted
154 21 jointly by the member states.

154 22 d. The seller shall obtain the same information
154 23 for proof of a claimed exemption regardless of the
154 24 medium in which the transaction occurred.

154 25 e. The department may authorize a system wherein
154 26 the purchaser exempt from the payment of the tax is
154 27 issued an identification number which shall be
154 28 presented to the seller at the time of the sale.

154 29 f. The seller shall maintain proper records of
154 30 exempt transactions and provide them to the department
154 31 when requested.

154 32 g. The department shall administer entity-based
154 33 and use-based exemptions when practicable through a
154 34 direct pay tax permit, an exemption certificate, or
154 35 another means that does not burden sellers. For the
154 36 purposes of this paragraph:

154 37 (1) An "entity-based exemption" is an exemption
154 38 based on who purchases the product or who sells the
154 39 product.

154 40 (2) A "use-based exemption" is an exemption based
154 41 on the purchaser's use of the product.

154 42 2. Sellers that follow the requirements of this
154 43 section are relieved from any tax otherwise applicable
154 44 if it is determined that the purchaser improperly
154 45 claimed an exemption and that the purchaser is liable
154 46 for the nonpayment of tax. This relief from liability
154 47 does not apply to a seller who fraudulently fails to
154 48 collect the tax or solicits purchasers to participate
154 49 in the unlawful claim of an exemption.

154 50 Sec. 183. NEW SECTION. 423.52 RELIEF FROM
155 1 LIABILITY FOR SELLERS AND CERTIFIED SERVICE PROVIDERS.
155 2 Sellers and certified service providers are
155 3 relieved from liability to this state or its local
155 4 taxing jurisdictions for having charged and collected
155 5 the incorrect amount of sales or use tax resulting
155 6 from the seller or certified service provider relying
155 7 on erroneous data provided by this state on tax rates,
155 8 boundaries, or taxing jurisdiction assignments. If
155 9 this state provides an address-based system for
155 10 assigning taxing jurisdictions whether or not pursuant
155 11 to the federal Mobile Telecommunications Sourcing Act,
155 12 the director is not required to provide liability
155 13 relief for errors resulting from reliance on the
155 14 information provided by this state.

155 15 Sec. 184. NEW SECTION. 423.53 BAD DEBTS AND
155 16 MODEL 1 SELLERS.
155 17 A certified service provider may claim, on behalf
155 18 of a model 1 seller, any bad debt deduction as
155 19 provided in section 423.21. The certified service
155 20 provider must credit or refund the full amount of any
155 21 bad debt deduction or refund received to the seller.

155 22 Sec. 185. NEW SECTION. 423.54 AMNESTY FOR
155 23 REGISTERED SELLERS.
155 24 1. Subject to the limitations in subsections 2
155 25 through 6, the following provisions apply:
155 26 a. Amnesty is provided for uncollected or unpaid
155 27 sales or use tax to a seller who registers to pay or
155 28 to collect and remit applicable sales or use tax on
155 29 sales made to purchasers in this state in accordance
155 30 with the terms of the agreement, provided the seller
155 31 was not so registered in this state in the twelve=
155 32 month period preceding the commencement of Iowa's
155 33 participation in the agreement.
155 34 b. Amnesty precludes assessment of the seller for
155 35 uncollected or unpaid sales or use tax together with
155 36 penalty or interest for sales made during the period
155 37 the seller was not registered in this state, provided
155 38 registration occurs within twelve months of the
155 39 commencement of Iowa's participation in the agreement.
155 40 c. Amnesty shall be provided to any seller
155 41 lawfully registered under the agreement by any other
155 42 member state prior to the date of the commencement of
155 43 Iowa's participation in the agreement.

155 44 2. Amnesty is not available to a seller with
155 45 respect to any matter or matters for which the seller
155 46 received notice of the commencement of an audit and
155 47 which audit is not yet finally resolved, including any
155 48 related administrative and judicial processes.

155 49 3. Amnesty is not available for sales or use taxes
155 50 already paid or remitted or to taxes collected by the
156 1 seller.

156 2 4. Amnesty is fully effective absent the seller's
156 3 fraud or intentional misrepresentation of a material
156 4 fact as long as the seller continues registration and
156 5 continues payment or collection and remittance of
156 6 applicable sales or use taxes for a period of at least
156 7 thirty=six months. The statute of limitations
156 8 applicable to asserting a tax liability is tolled
156 9 during this thirty=six month period.

156 10 5. Amnesty is applicable only to sales or use
156 11 taxes due from a seller in its capacity as a seller
156 12 and not to sales or use taxes due from a seller in its
156 13 capacity as a buyer.

156 14 6. The director may allow amnesty on terms and
156 15 conditions more favorable to a seller than the terms
156 16 required by this section.

156 17 Sec. 186. NEW SECTION. 423.55 DATABASES.
156 18 The department shall provide and maintain databases
156 19 required by the agreement for the benefit of sellers
156 20 registered under the agreement.

156 21 Sec. 187. NEW SECTION. 423.56 CONFIDENTIALITY
156 22 AND PRIVACY PROTECTIONS UNDER MODEL 1.
156 23 1. As used in this section:
156 24 a. "Anonymous data" means information that does
156 25 not identify a person.
156 26 b. "Confidential taxpayer information" means all
156 27 information that is protected under this state's laws,
156 28 rules, and privileges.
156 29 c. "Personally identifiable information" means
156 30 information that identifies a person.
156 31 2. With very limited exceptions, a certified
156 32 service provider shall perform its tax calculation,
156 33 remittance, and reporting functions without retaining
156 34 the personally identifiable information of consumers.
156 35 3. A certified service provider may perform its
156 36 services in this state only if the certified service
156 37 provider certifies that:
156 38 a. Its system has been designed and tested to
156 39 ensure that the fundamental precept of anonymity is
156 40 respected.
156 41 b. Personally identifiable information is only
156 42 used and retained to the extent necessary for the
156 43 administration of model 1 sellers with respect to
156 44 exempt purchasers.
156 45 c. It provides consumers clear and conspicuous
156 46 notice of its information practices, including what
156 47 information it collects, how it collects the
156 48 information, how it uses the information, how long, if
156 49 at all, it retains the information, and whether it
156 50 discloses the information to member states. This
157 1 notice shall be satisfied by a written privacy policy
157 2 statement accessible by the public on the official web
157 3 site of the certified service provider.
157 4 d. Its collection, use, and retention of
157 5 personally identifiable information is limited to that
157 6 required by the member states to ensure the validity
157 7 of exemptions from taxation that are claimed by reason
157 8 of a consumer's status or the intended use of the
157 9 goods or services purchased.
157 10 e. It provides adequate technical, physical, and
157 11 administrative safeguards so as to protect personally
157 12 identifiable information from unauthorized access and
157 13 disclosure.
157 14 4. The department shall provide public
157 15 notification of its practices relating to the
157 16 collection, use, and retention of personally
157 17 identifiable information.
157 18 5. When any personally identifiable information
157 19 that has been collected and retained by the department
157 20 or certified service provider is no longer required
157 21 for the purposes set forth in subsection 3, paragraph
157 22 "d", that information shall no longer be retained by
157 23 the department or certified service provider.
157 24 6. When personally identifiable information
157 25 regarding an individual is retained by or on behalf of
157 26 this state, this state shall provide reasonable access
157 27 by such individual to his or her own information in
157 28 the state's possession and a right to correct any
157 29 inaccurately recorded information.
157 30 7. This privacy policy is subject to enforcement
157 31 by the department and the attorney general.
157 32 8. This state's laws and rules regarding the
157 33 collection, use, and maintenance of confidential
157 34 taxpayer information remain fully applicable and
157 35 binding. Without limitation, the agreement does not
157 36 enlarge or limit the state's or department's authority
157 37 to:
157 38 a. Conduct audits or other review as provided
157 39 under the agreement and state law.
157 40 b. Provide records pursuant to its examination of
157 41 public records law, disclosure laws of individual
157 42 governmental agencies, or other regulations.
157 43 c. Prevent, consistent with state law, disclosures
157 44 of confidential taxpayer information.
157 45 d. Prevent, consistent with federal law,
157 46 disclosures or misuse of federal return information
157 47 obtained under a disclosure agreement with the
157 48 internal revenue service.
157 49 e. Collect, disclose, disseminate, or otherwise
157 50 use anonymous data for governmental purposes.
158 1 9. This privacy policy does not preclude the

158 2 certification of a certified service provider whose
158 3 privacy policy is more protective of confidential
158 4 taxpayer information or personally identifiable
158 5 information than is required by the agreement.
158 6 Sec. 188. NEW SECTION. 423.57 STATUTES
158 7 APPLICABLE.
158 8 The director shall administer this subchapter as it
158 9 relates to the taxes imposed in this chapter in the
158 10 same manner and subject to all the provisions of, and
158 11 all of the powers, duties, authority, and restrictions
158 12 contained in sections 423.14, 423.15, 423.16, 423.17,
158 13 423.18, 423.19, 423.20, 423.21, 423.22, 423.23,
158 14 423.24, 423.25, 423.28, 423.29, 423.31, 423.32,
158 15 423.33, 423.34, 423.35, 423.37, 423.38, 423.39,
158 16 423.40, 423.41, and 423.42, section 423.43, subsection
158 17 3, and sections 423.45, 423.46, and 423.47.
158 18 Sec. 189. NEW SECTION. 423.60 REMOTE SALES TAX
158 19 FUND == APPROPRIATIONS.
158 20 1. A remote sales tax fund is created as a
158 21 separate fund in the state treasury under the control
158 22 of the department of revenue and finance consisting of
158 23 the state sales and use tax revenues collected from
158 24 remote sales and deposited as provided in section
158 25 423.43, subsection 3.
158 26 2. There is appropriated from the remote sales tax
158 27 fund for the fiscal year beginning July 1, 2005, and
158 28 each succeeding fiscal year to the general fund of the
158 29 state the following:
158 30 a. The first sixty million dollars deposited into
158 31 the fund during each fiscal year.
158 32 b. An amount to offset the projected loss during
158 33 the fiscal year to the general fund of the state
158 34 resulting from a state tax relief Act enacted during
158 35 the period beginning four and one-half years prior to
158 36 the start of the fiscal year. However, any state tax
158 37 relief Act enacted prior to July 1, 2004, shall not be
158 38 covered under this subsection.
158 39 3. For purposes of subsection 2, "state tax relief
158 40 Act" means an Act that was projected by the
158 41 legislative fiscal bureau to result in a loss in
158 42 revenue to the general fund of the state of at least
158 43 five million dollars in the first full fiscal year
158 44 during which the Act is effective and that contains
158 45 any of the following:
158 46 a. A state sales or use tax exemption.
158 47 b. A deduction for any state tax.
158 48 c. A reduction in any state tax rate.
158 49 Sec. 190.
158 50 1. Sections 422.42 through 422.59, Code 2003, are
159 1 repealed.
159 2 2. Chapter 423, Code 2003, is repealed.
159 3 COORDINATING AMENDMENTS
159 4 Sec. 191. Section 15.331A, Code 2003, is amended
159 5 to read as follows:
159 6 15.331A SALES, SERVICES, AND USE TAX REFUND ==
159 7 CONTRACTOR OR SUBCONTRACTOR.
159 8 The eligible business or a supporting business
159 9 shall be entitled to a refund of the sales and use
159 10 taxes paid under ~~chapters 422 and chapter 423~~ for gas,
159 11 electricity, water, or sewer utility services, goods,
159 12 wares, or merchandise, or on services rendered,
159 13 furnished, or performed to or for a contractor or
159 14 subcontractor and used in the fulfillment of a written
159 15 contract relating to the construction or equipping of
159 16 a facility within the economic development area of the
159 17 eligible business or a supporting business. Taxes
159 18 attributable to intangible property and furniture and
159 19 furnishings shall not be refunded.
159 20 To receive the refund a claim shall be filed by the
159 21 eligible business or a supporting business with the
159 22 department of revenue and finance as follows:
159 23 1. The contractor or subcontractor shall state
159 24 under oath, on forms provided by the department, the
159 25 amount of the sales of goods, wares, or merchandise or
159 26 services rendered, furnished, or performed including
159 27 water, sewer, gas, and electric utility services for
159 28 use in the economic development area upon which sales
159 29 or use tax has been paid prior to the project
159 30 completion, and shall file the forms with the eligible
159 31 business or supporting business before final
159 32 settlement is made.

159 33 2. The eligible business or a supporting business
159 34 shall, not more than one year after project
159 35 completion, make application to the department for any
159 36 refund of the amount of the sales and use taxes paid
159 37 pursuant to chapter ~~422~~ or 423 upon any goods, wares,
159 38 or merchandise, or services rendered, furnished, or
159 39 performed, including water, sewer, gas, and electric
159 40 utility services. The application shall be made in
159 41 the manner and upon forms to be provided by the
159 42 department, and the department shall audit the claim
159 43 and, if approved, issue a warrant to the eligible
159 44 business or supporting business in the amount of the
159 45 sales or use tax which has been paid to the state of
159 46 Iowa under a contract. A claim filed by the eligible
159 47 business or a supporting business in accordance with
159 48 this section shall not be denied by reason of a
159 49 limitation provision set forth in chapter 421, ~~422~~, or
159 50 423.

160 1 3. A contractor or subcontractor who willfully
160 2 makes a false report of tax paid under the provisions
160 3 of this section is guilty of a simple misdemeanor and
160 4 in addition is liable for the payment of the tax and
160 5 any applicable penalty and interest.

160 6 Sec. 192. Section 15.334A, Code 2003, is amended
160 7 to read as follows:

160 8 15.334A SALES AND USE TAX EXEMPTION.

160 9 An eligible business may claim an exemption from
160 10 sales and use taxation under section ~~422.45~~ 423.3,
160 11 subsection ~~27~~ 46, for property which is exempt from
160 12 taxation under section 15.334, notwithstanding the
160 13 requirements of section ~~422.45~~ 423.3, subsection ~~27~~
160 14 46, or any other provision of the Code to the
160 15 contrary.

160 16 Sec. 193. Section 15A.9, subsections 5, 6, and 7,
160 17 Code 2003, are amended to read as follows:

160 18 5. PROPERTY TAX EXEMPTION.

160 19 a. All property, as defined in section 427A.1,
160 20 subsection 1, paragraphs "e" and "j", Code 1993, used
160 21 by the primary business or a supporting business and
160 22 located within the zone, shall be exempt from property
160 23 taxation for a period of twenty years beginning with
160 24 the year it is first assessed for taxation. In order
160 25 to be eligible for this exemption, the property shall
160 26 be acquired or leased by the primary business or a
160 27 supporting business or relocated by the primary
160 28 business or a supporting business to the zone from
160 29 outside the state prior to project completion.

160 30 b. Property which is exempt for property tax
160 31 purposes under this subsection is eligible for the
160 32 sales and use tax exemption under section ~~422.45~~
160 33 423.3, subsection ~~27~~ 46, notwithstanding that
160 34 subsection or any other provision of the Code to the
160 35 contrary.

160 36 6. SALES, SERVICES, AND USE TAX REFUND. Taxes
160 37 paid pursuant to chapter ~~422~~ or 423 on the gross
160 38 ~~receipts sales price~~ or rental price of property
160 39 purchased or rented by the primary business or a
160 40 supporting business for use by the primary business or
160 41 a supporting business within the zone or on gas,
160 42 electricity, water, and sewer utility services prior
160 43 to project completion shall be refunded to the primary
160 44 business or supporting business if the item was
160 45 purchased or the service was performed or received
160 46 prior to project completion. Claims under this
160 47 section shall be submitted on forms provided by the
160 48 department of revenue and finance not later than six
160 49 months after project completion. The refund in this
160 50 subsection shall not apply to furniture or
161 1 furnishings, or intangible property.

161 2 7. SALES, SERVICES, AND USE TAX REFUND ==

161 3 CONTRACTOR OR SUBCONTRACTOR. The primary business or
161 4 a supporting business shall be entitled to a refund of
161 5 the sales and use taxes paid under ~~chapters 422 and~~
161 6 chapter 423 for gas, electricity, water, or sewer
161 7 utility services, goods, wares, or merchandise, or on
161 8 services rendered, furnished, or performed to or for a
161 9 contractor or subcontractor and used in the
161 10 fulfillment of a written contract relating to the
161 11 construction or equipping of a facility within the
161 12 zone of the primary business or a supporting business.
161 13 Taxes attributable to intangible property and

161 14 furniture and furnishings shall not be refunded.
161 15 To receive the refund a claim shall be filed by the
161 16 primary business or a supporting business with the
161 17 department of revenue and finance as follows:
161 18 a. The contractor or subcontractor shall state
161 19 under oath, on forms provided by the department, the
161 20 amount of the sales of goods, wares, or merchandise or
161 21 services rendered, furnished, or performed including
161 22 water, sewer, gas, and electric utility services for
161 23 use in the zone upon which sales or use tax has been
161 24 paid prior to the project completion, and shall file
161 25 the forms with the primary business or supporting
161 26 business before final settlement is made.
161 27 b. The primary business or a supporting business
161 28 shall, not more than six months after project
161 29 completion, make application to the department for any
161 30 refund of the amount of the sales and use taxes paid
161 31 pursuant to chapter ~~422~~ or 423 upon any goods, wares,
161 32 or merchandise, or services rendered, furnished, or
161 33 performed, including water, sewer, gas, and electric
161 34 utility services. The application shall be made in
161 35 the manner and upon forms to be provided by the
161 36 department, and the department shall audit the claim
161 37 and, if approved, issue a warrant to the primary
161 38 business or supporting business in the amount of the
161 39 sales or use tax which has been paid to the state of
161 40 Iowa under a contract. A claim filed by the primary
161 41 business or a supporting business in accordance with
161 42 this subsection shall not be denied by reason of a
161 43 limitation provision set forth in chapter 421, 422, or
161 44 423.
161 45 c. A contractor or subcontractor who willfully
161 46 makes a false report of tax paid under the provisions
161 47 of this subsection is guilty of a simple misdemeanor
161 48 and in addition is liable for the payment of the tax
161 49 and any applicable penalty and interest.
161 50 Sec. 194. Section 28A.17, unnumbered paragraph 1,
162 1 Code 2003, is amended to read as follows:
162 2 If an authority is established as provided in
162 3 section 28A.6 and after approval of a referendum by a
162 4 simple majority of votes cast in each metropolitan
162 5 area in favor of the sales and services tax, the
162 6 governing board of a county in this state within a
162 7 metropolitan area which is part of the authority shall
162 8 impose, at the request of the authority, a local sales
162 9 and services tax at the rate of one-fourth of one
162 10 percent on ~~gross receipts~~ the sales price taxed by
162 11 this state under ~~chapter 422, division IV section~~
162 12 ~~423.2~~, within the metropolitan area located in this
162 13 state. The referendum shall be called by resolution
162 14 of the board and shall be held as provided in section
162 15 28A.6 to the extent applicable. The ballot
162 16 proposition shall contain a statement as to the
162 17 specific purpose or purposes for which the revenues
162 18 shall be expended and the date of expiration of the
162 19 tax. The local sales and services tax shall be
162 20 imposed on the same basis, with the same exceptions,
162 21 and following the same administrative procedures as
162 22 provided for a county under sections 422B.8 and
162 23 422B.9. The amount of the sale, for the purposes of
162 24 determining the amount of the local sales and services
162 25 tax under this section, does not include the amount of
162 26 any local sales and services tax imposed under
162 27 sections 422B.8 and 422B.9.
162 28 Sec. 195. Section 29C.15, Code 2003, is amended to
162 29 read as follows:
162 30 29C.15 TAX=EXEMPT PURCHASES.
162 31 All purchases under the provisions of this chapter
162 32 shall be exempt from the taxes imposed by sections
162 33 ~~422.43~~ 423.2 and ~~423.2~~ 423.5.
162 34 Sec. 196. Section 99E.10, subsection 1, paragraph
162 35 b, Code 2003, is amended to read as follows:
162 36 b. An amount equal to the product of the state
162 37 sales tax rate under section ~~422.43~~ 423.2 multiplied
162 38 by the gross sales price of each ticket or share sold
162 39 shall be deducted as the sales tax on the sale of that
162 40 ticket or share, remitted to the treasurer of state
162 41 and deposited into the state general fund.
162 42 Sec. 197. Section 123.187, subsection 2, Code
162 43 2003, is amended to read as follows:
162 44 2. A winery licensed or permitted pursuant to laws

162 45 regulating alcoholic beverages in a state which
162 46 affords this state an equal reciprocal shipping
162 47 privilege may ship into this state by private common
162 48 carrier, to a person twenty-one years of age or older,
162 49 not more than eighteen liters of wine per month, for
162 50 consumption or use by the person. Such wine shall not
163 1 be resold. Shipment of wine pursuant to this
163 2 subsection is not subject to sales tax under section
163 3 ~~422.43~~ 423.2, use tax under section ~~423.2~~ 423.
163 4 ~~the wine gallonage tax under section 123.183, and does~~
163 5 ~~not require a refund value for beverage container~~
163 6 ~~control purposes under chapter 455C.~~

163 7 Sec. 198. Section 262.54, Code 2003, is amended to
163 8 read as follows:

163 9 262.54 COMPUTER SALES.

163 10 Sales, by an institution under the control of the
163 11 board of regents, of computer equipment, computer
163 12 software, and computer supplies to students and
163 13 faculty at the institution are retail sales under
163 14 chapter ~~422~~, division IV 423.

163 15 Sec. 199. Section 303.9, subsection 2, Code 2003,
163 16 is amended to read as follows:

163 17 2. The department may sell mementos and other
163 18 items relating to Iowa history and historic sites on
163 19 the premises of property under control of the
163 20 department and at the state capitol. Notwithstanding
163 21 sections 18.12 and 18.16, the department may directly
163 22 and independently enter into rental and lease
163 23 agreements with private vendors for the purpose of
163 24 selling mementos. All fees and income produced by the
163 25 sales and rental or lease agreements shall be credited
163 26 to the account of the department. The mementos and
163 27 other items sold by the department or vendors under
163 28 this subsection are exempt from section 18.6. ~~The~~
163 29 ~~department is not a retailer under chapter 422 and the~~
163 30 ~~sale of such mementos and other items by the~~
163 31 ~~department is not a retail sale under chapter 422 and~~
163 32 ~~is exempt from the sales tax.~~

163 33 Sec. 200. Section 312.1, subsection 4, Code 2003,
163 34 is amended to read as follows:

163 35 4. To the extent provided in section ~~423.24~~
163 36 423.43, subsection 1, paragraph "b", from revenue
163 37 derived from the use tax, under chapter 423 on motor
163 38 vehicles, trailers, and motor vehicle accessories and
163 39 equipment.

163 40 Sec. 201. Section 312.2, subsections 14 and 16,
163 41 Code 2003, are amended to read as follows:

163 42 14. The treasurer of state, before making the
163 43 allotments provided for in this section, shall credit
163 44 monthly from the road use tax fund to the general fund
163 45 of the state from revenue credited to the road use tax
163 46 fund under section ~~423.24~~ 423.43, subsection 1,
163 47 paragraph "b", an amount equal to one-twentieth of
163 48 eighty percent of the revenue from the operation of
163 49 section ~~423.7~~ 423.26.

163 50 There is appropriated from the general fund of the
164 1 state for each fiscal year to the state department of
164 2 transportation the amount of revenues credited to the
164 3 general fund of the state during the fiscal year under
164 4 this subsection to be used for purposes of public
164 5 transit assistance under chapter 324A.

164 6 16. The treasurer of state, before making the
164 7 allotments provided for in this section, shall credit
164 8 monthly from the road use tax fund to the motorcycle
164 9 rider education fund established in section 321.180B,
164 10 an amount equal to one dollar per year of license
164 11 validity for each issued or renewed driver's license
164 12 which is valid for the operation of a motorcycle.
164 13 Moneys credited to the motorcycle rider education fund
164 14 under this subsection shall be taken from moneys
164 15 credited to the road use tax fund under section ~~423.24~~
164 16 423.43.

164 17 Sec. 202. Section 321.20, subsection 5, Code 2003,
164 18 is amended to read as follows:

164 19 5. The amount of tax to be paid under section
164 20 ~~423.7~~ 423.26.

164 21 Sec. 203. Section 321.24, subsections 1 and 3,
164 22 Code 2003, are amended to read as follows:

164 23 1. Upon receipt of the application for title and
164 24 payment of the required fees for a motor vehicle,
164 25 trailer, or semitrailer, the county treasurer or the

164 26 department shall, when satisfied as to the
164 27 application's genuineness and regularity, and, in the
164 28 case of a mobile home or manufactured home, that taxes
164 29 are not owing under chapter 435, issue a certificate
164 30 of title and, except for a mobile home or manufactured
164 31 home, a registration receipt, and shall file the
164 32 application, the manufacturer's or importer's
164 33 certificate, the certificate of title, or other
164 34 evidence of ownership, as prescribed by the
164 35 department. The registration receipt shall be
164 36 delivered to the owner and shall contain upon its face
164 37 the date issued, the name and address of the owner,
164 38 the registration number assigned to the vehicle, the
164 39 amount of the fee paid, the amount of tax paid
164 40 pursuant to section ~~423.7~~ 423.26, the type of fuel
164 41 used, and a description of the vehicle as determined
164 42 by the department, and upon the reverse side a form
164 43 for notice of transfer of the vehicle. The name and
164 44 address of any lessee of the vehicle shall not be
164 45 printed on the registration receipt or certificate of
164 46 title. Up to three owners may be listed on the
164 47 registration receipt and certificate of title.

164 48 3. The certificate of title shall contain upon its
164 49 face the identical information required upon the face
164 50 of the registration receipt. In addition, the
165 1 certificate of title shall contain a statement of the
165 2 owner's title, the title number assigned to the owner
165 3 or owners of the vehicle, the amount of tax paid
165 4 pursuant to section ~~423.7~~ 423.26, the name and address
165 5 of the previous owner, and a statement of all security
165 6 interests and encumbrances as shown in the
165 7 application, upon the vehicle described, including the
165 8 nature of the security interest, date of notation, and
165 9 name and address of the secured party.

165 10 Sec. 204. Section 321.34, subsection 7, paragraph
165 11 c, Code 2003, is amended to read as follows:

165 12 c. The fees for a collegiate registration plate
165 13 are as follows:

165 14 (1) A registration fee of twenty-five dollars.

165 15 (2) A special collegiate registration fee of
165 16 twenty-five dollars.

165 17 These fees are in addition to the regular annual
165 18 registration fee. The fees collected by the director
165 19 under this subsection shall be paid monthly to the
165 20 treasurer of state and credited by the treasurer of
165 21 state to the road use tax fund. Notwithstanding
165 22 section ~~423.24~~ 423.43 and prior to the revenues being
165 23 credited to the road use tax fund under section ~~423.24~~
165 24 423.43, subsection 1, paragraph "b", the treasurer of
165 25 state shall credit monthly from those revenues
165 26 respectively, to Iowa state university of science and
165 27 technology, the university of northern Iowa, and the
165 28 state university of Iowa, the amount of the special
165 29 collegiate registration fees collected in the previous
165 30 month for collegiate registration plates designed for
165 31 the university. The moneys credited are appropriated
165 32 to the respective universities to be used for
165 33 scholarships for students attending the universities.

165 34 Sec. 205. Section 321.34, subsection 11, paragraph
165 35 c, Code 2003, is amended to read as follows:

165 36 c. The special natural resources fee for letter
165 37 number designated natural resources plates is thirty=
165 38 five dollars. The fee for personalized natural
165 39 resources plates is forty-five dollars which shall be
165 40 paid in addition to the special natural resources fee
165 41 of thirty-five dollars. The fees collected by the
165 42 director under this subsection shall be paid monthly
165 43 to the treasurer of state and credited to the road use
165 44 tax fund. Notwithstanding section ~~423.24~~ 423.43, and
165 45 prior to the crediting of revenues to the road use tax
165 46 fund under section ~~423.24~~ 423.43, subsection 1,
165 47 paragraph "b", the treasurer of state shall credit
165 48 monthly from those revenues to the Iowa resources
165 49 enhancement and protection fund created pursuant to
165 50 section 455A.18, the amount of the special natural
166 1 resources fees collected in the previous month for the
166 2 natural resources plates.

166 3 Sec. 206. Section 321.34, subsection 11A,
166 4 paragraph c, Code 2003, is amended to read as follows:

166 5 c. The special fee for letter number designated
166 6 love our kids plates is thirty-five dollars. The fee

166 7 for personalized love our kids plates is twenty=five
166 8 dollars, which shall be paid in addition to the
166 9 special love our kids fee of thirty=five dollars. The
166 10 fees collected by the director under this subsection
166 11 shall be paid monthly to the treasurer of state and
166 12 credited to the road use tax fund. Notwithstanding
166 13 section ~~423.24~~ 423.43, and prior to the crediting of
166 14 revenues to the road use tax fund under section ~~423.24~~
166 15 423.43, subsection 1, paragraph "b", the treasurer of
166 16 state shall transfer monthly from those revenues to
166 17 the Iowa department of public health the amount of the
166 18 special fees collected in the previous month for the
166 19 love our kids plates. Notwithstanding section 8.33,
166 20 moneys transferred under this subsection shall not
166 21 revert to the general fund of the state.

166 22 Sec. 207. Section 321.34, subsection 11B,
166 23 paragraph c, Code 2003, is amended to read as follows:

166 24 c. The special fee for letter number designated
166 25 motorcycle rider education plates is thirty=five
166 26 dollars. The fee for personalized motorcycle rider
166 27 education plates is twenty=five dollars, which shall
166 28 be paid in addition to the special motorcycle rider
166 29 education fee of thirty=five dollars. The fees
166 30 collected by the director under this subsection shall
166 31 be paid monthly to the treasurer of state and credited
166 32 to the road use tax fund. Notwithstanding section
166 33 ~~423.24~~ 423.43, and prior to the crediting of revenues
166 34 to the road use tax fund under section ~~423.24~~ 423.43,
166 35 subsection 1, paragraph "b", the treasurer of state
166 36 shall transfer monthly from those revenues to the
166 37 department for use in accordance with section
166 38 321.180B, subsection 6, the amount of the special fees
166 39 collected in the previous month for the motorcycle
166 40 rider education plates.

166 41 Sec. 208. Section 321.34, subsection 13, paragraph
166 42 d, Code 2003, is amended to read as follows:

166 43 d. A state agency may submit a request to the
166 44 department recommending a special registration plate.
166 45 The alternate fee for letter number designated plates
166 46 is thirty=five dollars with a ten dollar annual
166 47 special renewal fee. The fee for personalized plates
166 48 is twenty=five dollars which is in addition to the
166 49 alternative fee of thirty=five dollars with an annual
166 50 personalized plate renewal fee of five dollars which
167 1 is in addition to the special renewal fee of ten
167 2 dollars. The alternate fees are in addition to the
167 3 regular annual registration fee. The alternate fees
167 4 collected under this paragraph shall be paid monthly
167 5 to the treasurer of state and credited to the road use
167 6 tax fund. Notwithstanding section ~~423.24~~ 423.43, and
167 7 prior to the crediting of the revenues to the road use
167 8 tax fund under section ~~423.24~~ 423.43, subsection 1,
167 9 paragraph "b", the treasurer of state shall credit
167 10 monthly the amount of the alternate fees collected in
167 11 the previous month to the state agency that
167 12 recommended the special registration plate.

167 13 Sec. 209. Section 321.34, subsection 21, paragraph
167 14 c, Code 2003, is amended to read as follows:

167 15 c. The special fees collected by the director
167 16 under this subsection shall be paid monthly to the
167 17 treasurer of state and credited to the road use tax
167 18 fund. Notwithstanding section ~~423.24~~ 423.43, and
167 19 prior to the crediting of revenues to the road use tax
167 20 fund under section ~~423.24~~ 423.43, subsection 1,
167 21 paragraph "b", the treasurer of state shall credit
167 22 monthly to the Iowa heritage fund created under
167 23 section 303.9A the amount of the special fees
167 24 collected in the previous month for the Iowa heritage
167 25 plates.

167 26 Sec. 210. Section 321.34, subsection 22, paragraph
167 27 b, Code 2003, is amended to read as follows:

167 28 b. The special school transportation fee for
167 29 letter number designated education plates is thirty=
167 30 five dollars. The fee for personalized education
167 31 plates is twenty=five dollars, which shall be paid in
167 32 addition to the special school transportation fee of
167 33 thirty=five dollars. The annual special school
167 34 transportation fee is ten dollars for letter number
167 35 designated registration plates and is fifteen dollars
167 36 for personalized registration plates which shall be
167 37 paid in addition to the regular annual registration

167 38 fee. The fees collected by the director under this
167 39 subsection shall be paid monthly to the treasurer of
167 40 state and credited to the road use tax fund.
167 41 Notwithstanding section ~~423.24~~ 423.43, and prior to
167 42 the crediting of revenues to the road use tax fund
167 43 under section ~~423.24~~ 423.43, subsection 1, paragraph
167 44 "b", the treasurer of state shall transfer monthly
167 45 from those revenues to the school budget review
167 46 committee in accordance with section 257.31,
167 47 subsection 17, the amount of the special school
167 48 transportation fees collected in the previous month
167 49 for the education plates.

167 50 Sec. 211. Section 321F.9, Code 2003, is amended to
168 1 read as follows:

168 2 321F.9 OPTION TO PURCHASE == DEALER'S LICENSE.
168 3 Any person engaged in business in this state shall
168 4 not enter into any agreement for the use of a motor
168 5 vehicle under the terms of which ~~such that~~ person
168 6 grants to another an option to purchase ~~such the~~ motor
168 7 vehicle without first having obtained a motor vehicle
168 8 dealer's license under the provisions of chapter 322,
168 9 and all sales of motor vehicles under such options
168 10 shall be subject to sales or use taxes imposed under
168 11 the provisions of ~~chapters 422 and~~ chapter 423.
168 12 Nothing contained in this section shall require such
168 13 person to have a place of business as provided by
168 14 section 322.6, subsection 8.

168 15 Sec. 212. Section 327I.26, Code 2003, is amended
168 16 to read as follows:

168 17 327I.26 APPROPRIATION TO AUTHORITY.
168 18 Notwithstanding section ~~423.24~~ 423.43, and prior to
168 19 the application of section ~~423.24~~ 423.43, subsection
168 20 1, paragraph "b", there shall be deposited into the
168 21 general fund of the state and is appropriated to the
168 22 authority from eighty percent of the revenues derived
168 23 from the operation of section ~~423.7~~ 423.26, the
168 24 amounts certified by the authority under section
168 25 327I.25. However, the total amount deposited into the
168 26 general fund and appropriated to the Iowa railway
168 27 finance authority under this section shall not exceed
168 28 two million dollars annually. Moneys appropriated to
168 29 the Iowa railway finance authority under this section
168 30 are appropriated only for the payment of principal and
168 31 interest on obligations or the payment of leases
168 32 guaranteed by the authority as provided under section
168 33 327I.25.

168 34 Sec. 213. Section 328.26, unnumbered paragraph 2,
168 35 Code 2003, is amended to read as follows:

168 36 When an aircraft is registered to a person for the
168 37 first time the fee submitted to the department shall
168 38 include the tax imposed by section ~~422.43~~ 423.2 or
168 39 section ~~423.2~~ 423.5 or evidence of the exemption of
168 40 the aircraft from the tax imposed under section ~~422.43~~
168 41 423.2 or ~~423.2~~ 423.5.

168 42 Sec. 214. Section 331.557, subsection 3, Code
168 43 2003, is amended to read as follows:

168 44 3. Collect the use tax on vehicles subject to
168 45 registration as provided in sections ~~423.6, 423.7, and~~
168 46 ~~423.7A~~ 423.14, 423.26, and 423.27.

168 47 Sec. 215. Section 357A.15, unnumbered paragraph 2,
168 48 Code 2003, is amended to read as follows:

168 49 A rural water district organized under chapter 504A
168 50 shall receive a refund of sales or use taxes upon
169 1 submitting an application to the department of revenue
169 2 and finance for ~~such the~~ refund of taxes imposed upon
169 3 the ~~gross receipts~~ sales price of all sales of
169 4 building materials, supplies, or equipment sold to a
169 5 contractor or used in the fulfillment of a written
169 6 contract for the construction of facilities for ~~such~~
169 7 the rural water district to the same extent as a rural
169 8 water district organized under this chapter may obtain
169 9 a refund under section ~~422.45~~ 423.4, subsection 7 169 10

Code 2003, is amended to

169 11 read as follows:
169 12 421.10 APPEAL PERIOD == APPLICABILITY.

169 13 The appeal period for revision of assessment of
169 14 tax, interest, and penalties set out under section
169 15 422.28, ~~422.54~~ 423.37, 437A.9, 437A.22, 452A.64,
169 16 453A.29, or 453A.46 applies to appeals to notices from
169 17 the department denying changes in filing methods,
169 18 denying refund claims, and denying portions of refund

Sec. 216. Section 421.10,

169 19 claims for the tax covered by that section, and
169 20 notices of any department action directed to a
169 21 specific taxpayer, other than licensing, which
169 22 involves a calculation.

169 23 Sec. 217. Section 421.17, subsection 22B, Code
169 24 2003, is amended to read as follows:

169 25 22B. ~~Enter To enter~~ into agreements or compacts
169 26 with remote sellers, retailers, or third-party
169 27 providers for the voluntary collection of Iowa sales
169 28 or use taxes attributable to sales into Iowa ~~and to~~
~~169 29 enter. The director has the authority to enter~~ into
169 30 ~~and perform all duties required of the office of~~
~~169 31 director by~~ multistate agreements or compacts that
169 32 provide for the ~~voluntary~~ collection of sales and use
169 33 taxes, ~~including joint audits with other states or~~
~~169 34 audits on behalf of other states.~~ The agreements or
169 35 compacts shall generally conform to the provisions of
169 36 Iowa sales and use tax statutes. All fees for
169 37 services, reimbursements, remuneration, incentives,
169 38 and costs incurred by the department associated with
169 39 these agreements or compacts may be paid or reimbursed
169 40 from the additional revenue generated. An amount is
169 41 appropriated from amounts generated to pay or
169 42 reimburse all costs associated with this subsection.
169 43 Persons entering into an agreement or compact with the
169 44 department pursuant to this subsection are subject to
169 45 the requirements and penalties of the confidentiality
169 46 laws of this state regarding tax information.
169 47 Notwithstanding any other provisions of law, the
169 48 contract, agreement, or compact shall provide for the
169 49 registration, collection, report, and verification of
169 50 amounts subject to this subsection.

170 1 Sec. 218. Section 421.17, subsection 29, paragraph
170 2 j, Code 2003, is amended to read as follows:

170 3 j. The department's existing right to credit
170 4 against tax due or to become due under section 422.73
170 5 ~~or 423.47~~ is not to be impaired by a right granted to
170 6 or a duty imposed upon the department or other state
170 7 agency by this subsection. This subsection is not
170 8 intended to impose upon the department any additional
170 9 requirement of notice, hearing, or appeal concerning
170 10 the right to credit against tax due under section
170 11 422.73 ~~or 423.47~~.

170 12 Sec. 219. Section 421.17, subsection 34, paragraph
170 13 i, Code 2003, is amended to read as follows:

170 14 i. The director may distribute to credit reporting
170 15 entities and for publication the names, addresses, and
170 16 amounts of indebtedness owed to or being collected by
170 17 the state if the indebtedness is subject to the
170 18 centralized debt collection procedure established in
170 19 this subsection. The director shall adopt rules to
170 20 administer this paragraph, and the rules shall provide
170 21 guidelines by which the director shall determine which
170 22 names, addresses, and amounts of indebtedness may be
170 23 distributed for publication. The director may
170 24 distribute information for publication pursuant to
170 25 this paragraph, notwithstanding sections 422.20,
170 26 422.72, and ~~423.23~~ 423.42, or any other provision of
170 27 state law to the contrary pertaining to
170 28 confidentiality of information.

170 29 Sec. 220. Section 421.26, Code 2003, is amended to
170 30 read as follows:

170 31 421.26 PERSONAL LIABILITY FOR TAX DUE.

170 32 If a licensee or other person under section
170 33 452A.65, a retailer or purchaser under chapter 422A or
170 34 422B, or section ~~422.52~~ 423.31 or 423.33, or a
170 35 retailer or purchaser under section ~~423.13~~ 423.32 or a
170 36 user under section ~~423.14~~ 423.34 fails to pay a tax
170 37 under those sections when due, an officer of a
170 38 corporation or association, notwithstanding sections
170 39 490A.601 and 490A.602, a member or manager of a
170 40 limited liability company, or a partner of a
170 41 partnership, having control or supervision of or the
170 42 authority for remitting the tax payments and having a
170 43 substantial legal or equitable interest in the
170 44 ownership of the corporation, association, limited
170 45 liability company, or partnership, who has
170 46 intentionally failed to pay the tax is personally
170 47 liable for the payment of the tax, interest, and
170 48 penalty due and unpaid. However, this section shall
170 49 not apply to taxes on accounts receivable. The

170 50 dissolution of a corporation, association, limited
171 1 liability company, or partnership shall not discharge
171 2 a person's liability for failure to remit the tax due.
171 3 Sec. 221. Section 421.28, Code 2003, is amended to
171 4 read as follows:
171 5 421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.
171 6 The immediate successor to a licensee's or
171 7 retailer's business or stock of goods under chapter
171 8 422A or 422B, or section ~~422.52, 423.13, 423.14,~~
171 9 ~~423.33~~ or 452A.65, is not personally liable for the
171 10 amount of delinquent tax, interest, or penalty due and
171 11 unpaid if the immediate successor shows that the
171 12 purchase of the business or stock of goods was made in
171 13 good faith that no delinquent tax, interest, or
171 14 penalty was due and unpaid. For purposes of this
171 15 section the immediate successor shows good faith by
171 16 evidence that the department had provided the
171 17 immediate successor with a certified statement that no
171 18 delinquent tax, interest, or penalty is unpaid, or
171 19 that the immediate successor had taken in good faith a
171 20 certified statement from the licensee, retailer, or
171 21 seller that no delinquent tax, interest, or penalty is
171 22 unpaid. When requested to do so by a person with whom
171 23 the licensee or retailer is negotiating the sale of
171 24 the business or stock of goods, the director of
171 25 revenue and finance shall, upon being satisfied that
171 26 such a situation exists, inform that person as to the
171 27 amount of unpaid delinquent tax, interest, or penalty
171 28 due by the licensee or the retailer. The giving of
171 29 the information under this circumstance is not a
171 30 violation of section 422.20, 422.72, or 452A.63.
171 31 Sec. 222. Section 421B.11, unnumbered paragraph 3,
171 32 Code 2003, is amended to read as follows:
171 33 Judicial review of the actions of the director may
171 34 be sought in accordance with the terms of the Iowa
171 35 administrative procedure Act, and section ~~422.55~~
171 36 ~~423.38~~.
171 37 Sec. 223. Section 422.7, subsection 21, paragraph
171 38 a, subparagraph (1), unnumbered paragraph 1, Code
171 39 2003, is amended to read as follows:
171 40 Net capital gain from the sale of real property
171 41 used in a business, in which the taxpayer materially
171 42 participated for ten years, as defined in section
171 43 469(h) of the Internal Revenue Code, and which has
171 44 been held for a minimum of ten years, or from the sale
171 45 of a business, as defined in section ~~422.42~~ 423.1, in
171 46 which the taxpayer was employed or in which the
171 47 taxpayer materially participated for ten years, as
171 48 defined in section 469(h) of the Internal Revenue
171 49 Code, and which has been held for a minimum of ten
171 50 years. The sale of a business means the sale of all
172 1 or substantially all of the tangible personal property
172 2 or service of the business.
172 3 Sec. 224. Section 422.73, subsection 1, Code 2003,
172 4 is amended by striking the subsection.
172 5 Sec. 225. Section 422A.1, unnumbered paragraphs 1,
172 6 3, 7, and 8, Code 2003, are amended to read as
172 7 follows:
172 8 A city or county may impose by ordinance of the
172 9 city council or by resolution of the board of
172 10 supervisors a hotel and motel tax, at a rate not to
172 11 exceed seven percent, which shall be imposed in
172 12 increments of one or more full percentage points upon
172 13 the ~~gross receipts~~ sales price from the renting of
172 14 sleeping rooms, apartments, or sleeping quarters in a
172 15 hotel, motel, inn, public lodging house, rooming
172 16 house, manufactured or mobile home which is tangible
172 17 personal property, or tourist court, or in any place
172 18 where sleeping accommodations are furnished to
172 19 transient guests for rent, whether with or without
172 20 meals; except the ~~gross receipts~~ sales price from the
172 21 renting of sleeping rooms in dormitories and in
172 22 memorial unions at all universities and colleges
172 23 located in the state of Iowa and the guests of a
172 24 religious institution if the property is exempt under
172 25 section 427.1, subsection 8, and the purpose of
172 26 renting is to provide a place for a religious retreat
172 27 or function and not a place for transient guests
172 28 generally. The tax when imposed by a city shall apply
172 29 only within the corporate boundaries of that city and
172 30 when imposed by a county shall apply only outside

172 31 incorporated areas within that county. "Renting" and
172 32 "rent" include any kind of direct or indirect charge
172 33 for such sleeping rooms, apartments, or sleeping
172 34 quarters, or their use. However, the tax does not
172 35 apply to the ~~gross receipts sales price~~ from the
172 36 renting of a sleeping room, apartment, or sleeping
172 37 quarters while rented by the same person for a period
172 38 of more than thirty-one consecutive days.

172 39 A local hotel and motel tax shall be imposed on
172 40 January 1, April 1, July 1, or October 1, following
172 41 the notification of the director of revenue and
172 42 finance. Once imposed, the tax shall remain in effect
172 43 at the rate imposed for a minimum of one year. A
172 44 local hotel and motel tax shall terminate only on
172 45 March 31, June 30, September 30, or December 31. At
172 46 least ~~forty-five~~ sixty days prior to the tax being
172 47 effective or prior to a revision in the tax rate, or
172 48 prior to the repeal of the tax, a city or county shall
172 49 provide notice by mail of such action to the director
172 50 of revenue and finance.

173 1 No tax permit other than the state sales tax permit
173 2 required under section ~~422.53~~ 423.36 may be required
173 3 by local authorities.

173 4 The tax levied shall be in addition to any state
173 5 sales tax imposed under section ~~422.43~~ 423.2. Section
173 6 422.25, subsection 4, sections 422.30, ~~422.48 to~~
~~173 7 422.52, 422.54 to 422.58,~~ 422.67, and 422.68, section
173 8 422.69, subsection 1, and sections 422.70 to 422.75,
173 9 section 423.14, subsection 1, and sections 423.23,
173 10 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 to

173 11 423.42, and 423.47, consistent with the provisions of
173 12 this chapter, apply with respect to the taxes
173 13 authorized under this chapter, in the same manner and
173 14 with the same effect as if the hotel and motel taxes
173 15 were retail sales taxes within the meaning of those
173 16 statutes. Notwithstanding this paragraph, the
173 17 director shall provide for quarterly filing of returns
173 18 ~~as prescribed in section 422.51~~ and for other than
173 19 quarterly filing of returns both as prescribed in
173 20 section ~~422.51, subsection 2~~ 423.31. The director may
173 21 require all persons, as defined in section ~~422.42~~
173 22 423.1, who are engaged in the business of deriving
173 23 ~~gross receipts~~ any sales price subject to tax under
173 24 this chapter, to register with the department.

173 25 Sec. 226. Section 422B.8, Code 2003, is amended to
173 26 read as follows:

173 27 422B.8 LOCAL SALES AND SERVICES TAX.

173 28 A local sales and services tax at the rate of not
173 29 more than one percent may be imposed by a county on
173 30 the ~~gross receipts sales price~~ taxed by the state
173 31 under chapter ~~422~~ 423, division IV subchapter
173 32 local sales and services tax shall be imposed on the
173 33 same basis as the state sales and services tax or in
173 34 the case of the use of natural gas, natural gas
173 35 service, electricity, or electric service on the same
173 36 basis as the state use tax and shall not be imposed on
173 37 the sale of any property or on any service not taxed
173 38 by the state, except the tax shall not be imposed on
173 39 the gross receipts sales price from the sale of motor
173 40 fuel or special fuel as defined in chapter 452A which
173 41 is consumed for highway use or in watercraft or
173 42 aircraft if the fuel tax is paid on the transaction
173 43 and a refund has not or will not be allowed, on the
173 44 ~~gross receipts sales price~~ from the rental of rooms,
173 45 apartments, or sleeping quarters which are taxed under
173 46 chapter 422A during the period the hotel and motel tax
173 47 is imposed, on the ~~gross receipts sales price~~ from the
173 48 sale of equipment by the state department of
173 49 transportation, on the ~~gross receipts sales price~~ from
173 50 the sale of self-propelled building equipment, pile
174 1 drivers, motorized scaffolding, or attachments
174 2 customarily drawn or attached to self-propelled
174 3 building equipment, pile drivers, and motorized
174 4 scaffolding, including auxiliary attachments which
174 5 improve the performance, safety, operation, or
174 6 efficiency of the equipment and replacement parts and
174 7 are directly and primarily used by contractors,
174 8 subcontractors, and builders for new construction,
174 9 reconstruction, alterations, expansion, or remodeling
174 10 of real property or structures, and on the ~~gross~~
174 11 ~~receipts sales price~~ from the sale of a lottery ticket

174 12 or share in a lottery game conducted pursuant to
174 13 chapter 99E and except the tax shall not be imposed on
174 14 the ~~gross receipts sales price~~ from the sale or use of
174 15 natural gas, natural gas service, electricity, or
174 16 electric service in a city or county where the ~~gross~~
174 17 ~~receipts sales price~~ from the sale of natural gas or
174 18 electric energy are subject to a franchise fee or user
174 19 fee during the period the franchise or user fee is
174 20 imposed. A local sales and services tax is applicable
174 21 to transactions within those incorporated and
174 22 unincorporated areas of the county where it is imposed
174 23 and shall be collected by all persons required to
174 24 collect state ~~gross receipts sales~~ taxes. However, a
174 25 person required to collect state retail sales tax
174 26 under chapter ~~422 423, division IV subchapter~~
174 27 is not required to collect local sales and services
174 28 tax on transactions delivered within the area where
174 29 the local sales and services tax is imposed unless the
174 30 person has physical presence in that taxing area. All
174 31 cities contiguous to each other shall be treated as
174 32 part of one incorporated area and the tax would be
174 33 imposed in each of those contiguous cities only if the
174 34 majority of those voting in the total area covered by
174 35 the contiguous cities favor its imposition.
174 36 The amount of the sale, for purposes of determining
174 37 the amount of the local sales and services tax, does
174 38 not include the amount of any state gross receipts
174 39 taxes sales tax.

174 40 A tax permit other than the state sales tax permit
174 41 required under section ~~422.53 or 423.10~~ 423.36 shall
174 42 not be required by local authorities.

174 43 If a local sales and services tax is imposed by a
174 44 county pursuant to this chapter, a local excise tax at
174 45 the same rate shall be imposed by the county on the
174 46 purchase price of natural gas, natural gas service,
174 47 electricity, or electric service subject to tax under
174 48 chapter 423, subchapter III, and not exempted from tax
174 49 by any provision of chapter 423, subchapter III. The
174 50 local excise tax is applicable only to the use of
175 1 natural gas, natural gas service, electricity, or
175 2 electric service within those incorporated and
175 3 unincorporated areas of the county where it is imposed
175 4 and, except as otherwise provided in this chapter,
175 5 shall be collected and administered in the same manner
175 6 as the local sales and services tax. For purposes of
175 7 this chapter, "local sales and services tax" shall
175 8 also include the local excise tax.

175 9 Sec. 227. Section 422B.9, subsections 1 and 2,
175 10 Code 2003, are amended to read as follows:

175 11 1. a. A local sales and services tax shall be
175 12 imposed either January 1 or July 1 following the
175 13 notification of the director of revenue and finance
175 14 but not sooner than ninety days following the
175 15 favorable election and not sooner than sixty days
175 16 following notice to sellers, as defined in section

175 17 423.1. However, a jurisdiction which has voted to
175 18 continue imposition of the tax may impose that tax
175 19 without repeal of the prior tax.

175 20 b. A local sales and services tax shall be
175 21 repealed only on June 30 or December 31 but not sooner
175 22 than ninety days following the favorable election if
175 23 one is held. However, a local sales and services tax
175 24 shall not be repealed before the tax has been in
175 25 effect for one year. At least forty days before the
175 26 imposition or repeal of the tax, a county shall
175 27 provide notice of the action by certified mail to the
175 28 director of revenue and finance.

175 29 c. The imposition of or a rate change for a local
175 30 sales and service tax shall not be applied to
175 31 purchases from a printed catalog wherein a purchaser
175 32 computes the local tax based on rates published in the
175 33 catalog unless a minimum of one hundred twenty days'
175 34 notice of the imposition or rate change has been given
175 35 to the seller from the catalog and the first day of a
175 36 calendar quarter has occurred on or after the one
175 37 hundred twentieth day.

175 38 e- d. If a local sales and services tax has been
175 39 imposed prior to April 1, 2000, and at the time of the
175 40 election a date for repeal was specified on the
175 41 ballot, the local sales and services tax may be
175 42 repealed on that date, notwithstanding paragraph "b".

175 43 2. a. The director of revenue and finance shall
175 44 administer a local sales and services tax as nearly as
175 45 possible in conjunction with the administration of
175 46 state ~~gross receipts sales~~ tax laws. The director
175 47 shall provide appropriate forms or provide on the
175 48 regular state tax forms for reporting local sales and
175 49 services tax liability.

175 50 b. The ordinance of a county board of supervisors
176 1 imposing a local sales and services tax shall adopt by
176 2 reference the applicable provisions of the appropriate
176 3 sections of ~~chapter 422, division IV, and chapter 423.~~
176 4 All powers and requirements of the director to
176 5 administer the state ~~gross receipts sales~~ tax law and
176 6 use tax law are applicable to the administration of a
176 7 local sales and services tax law and the local excise
176 8 tax, including but not limited to, the provisions of
176 9 section 422.25, subsection 4, sections 422.30, ~~422.48~~
176 10 ~~to 422.52, 422.54 to 422.58, 422.67, and 422.68,~~
176 11 section 422.69, subsection 1, sections 422.70 to
176 12 422.75, 423.6, subsections 2 to 4, and sections 423.11
176 13 to 423.18, and 423.21 section 423.14, subsection 1 and
176 14 subsection 2, paragraphs "b" through "e", and sections
176 15 423.15, 423.23, 423.24, 423.25, 423.31 to 423.35,
176 16 423.37 to 423.42, 423.46, and 423.47. Local officials
176 17 shall confer with the director of revenue and finance
176 18 for assistance in drafting the ordinance imposing a
176 19 local sales and services tax. A certified copy of the
176 20 ordinance shall be filed with the director as soon as
176 21 possible after passage.

176 22 c. Frequency of deposits and quarterly reports of
176 23 a local sales and services tax with the department of
176 24 revenue and finance are governed by the tax provisions
176 25 in section ~~422.52~~ 423.31. Local tax collections shall
176 26 not be included in computation of the total tax to
176 27 determine frequency of filing under section ~~422.52~~
176 28 423.31.

176 29 d. The director shall apply a boundary change of a
176 30 county or city imposing or collecting the local sales
176 31 and service tax to the imposition or collection of
176 32 that tax only on the first day of a calendar quarter
176 33 which occurs sixty days or more after the director has
176 34 given notice of the boundary change to sellers.

176 35 Sec. 228. Section 422C.2, subsections 4 and 6,
176 36 Code 2003, are amended to read as follows:

176 37 4. "Person" means person as defined in section
176 38 ~~422.42~~ 423.1.

176 39 6. "Rental price" means the consideration for
176 40 renting an automobile valued in money, and means the
176 41 same as ~~"gross taxable services"~~ "sales price" as
176 42 defined in section ~~422.42~~ 423.1.

176 43 Sec. 229. Section 422C.3, Code 2003, is amended to
176 44 read as follows:

176 45 422C.3 TAX ON RENTAL OF AUTOMOBILES.

176 46 1. A tax of five percent is imposed upon the
176 47 rental price of an automobile if the rental
176 48 transaction is subject to the sales and services tax
176 49 under chapter ~~422~~ 423, division IV subchapter
176 50 the use tax under chapter 423, subchapter III. The

177 1 tax shall not be imposed on any rental transaction not
177 2 taxable under the state sales and services tax, as
177 3 provided in section ~~422.45~~ 423.3, or the state use
177 4 tax, as provided in section ~~423.4~~ 423.6, on automobile
177 5 rental receipts.

177 6 2. The lessor shall collect the tax by adding the
177 7 tax to the rental price of the automobile.

177 8 3. The tax, when collected, shall be stated as a
177 9 distinct item separate and apart from the rental price
177 10 of the automobile and the sales and services tax
177 11 imposed under chapter ~~422~~ 423, division IV sub
177 12 II, or the use tax imposed under chapter 423,
177 13 subchapter III.

177 14 Sec. 230. Section 422C.4, Code 2003, is amended to
177 15 read as follows:

177 16 422C.4 ADMINISTRATION AND ENFORCEMENT.

177 17 All powers and requirements of the director of
177 18 revenue and finance to administer the state ~~gross~~
177 19 ~~receipts sales~~ tax law under chapter ~~422, division IV,~~
177 20 423 are applicable to the administration of the tax
177 21 imposed under section 422C.3, including but not
177 22 limited to section 422.25, subsection 4, sections
177 23 422.30, ~~422.48 through 422.52, 422.54 through 422.58,~~

177 24 422.67, and 422.68, section 422.69, subsection 1, and
177 25 sections 422.70 through 422.75, section 423.14,
177 26 subsection 1, and sections 423.15, 423.23, 423.24,
177 27 423.25, 423.31, 423.33, 423.35 and 423.37 through
177 28 423.42, 423.45, 423.46, and 423.47. However, as an
177 29 exception to the powers specified in section ~~422.52,~~
177 30 ~~subsection 1 423.31,~~ the director shall only require
177 31 the filing of quarterly reports.

177 32 Sec. 231. Section 422E.1, subsection 1, is amended
177 33 to read as follows:

177 34 1. A local sales and services tax for school
177 35 infrastructure purposes may be imposed by a county on
177 36 behalf of school districts as provided in this
177 37 chapter.

177 38 If a local sales and services tax for school
177 39 infrastructure is imposed by a county pursuant to this
177 40 chapter, a local excise tax for school infrastructure
177 41 at the same rate shall be imposed by the county on the
177 42 purchase price of natural gas, natural gas service,
177 43 electricity, or electric service subject to tax under
177 44 chapter 423, subchapter III, and not exempted from tax
177 45 by any provision of chapter 423, subchapter III. The
177 46 local excise tax for school infrastructure is
177 47 applicable only to the use of natural gas, natural gas
177 48 service, electricity, or electric service within those
177 49 incorporated and unincorporated areas of the county
177 50 where it is imposed and, except as otherwise provided
178 1 in this chapter, shall be collected and administered
178 2 in the same manner as the local sales and services tax
178 3 for school infrastructure. For purposes of this
178 4 chapter, "local sales and services tax for school
178 5 infrastructure" shall also include the local excise
178 6 tax for school infrastructure.

178 7 Sec. 232. Section 422E.3, subsections 1, 2, and 3,
178 8 Code 2003, are amended to read as follows:

178 9 1. If a majority of those voting on the question
178 10 of imposition of a local sales and services tax for
178 11 school infrastructure purposes favors imposition of
178 12 the tax, the tax shall be imposed by the county board
178 13 of supervisors within the county pursuant to section
178 14 422E.2, at the rate specified for a ten-year duration
178 15 on the ~~gross receipts sales price~~ taxed by the state
178 16 under chapter ~~422 423, division IV subchapter~~
178 17 2. The tax shall be imposed on the same basis as
178 18 the state sales and services tax or in the case of the
178 19 use of natural gas, natural gas service, electricity,
178 20 or electric service on the same basis as the state use
178 21 tax and shall not be imposed on the sale of any
178 22 property or on any service not taxed by the state,
178 23 except the tax shall not be imposed on the gross

178 24 receipts sales price from the sale of motor fuel or
178 25 special fuel as defined in chapter 452A which is
178 26 consumed for highway use or in watercraft or aircraft
178 27 if the fuel tax is paid on the transaction and a
178 28 refund has not or will not be allowed, on the ~~gross~~
178 29 ~~receipts sales price~~ from the rental of rooms,
178 30 apartments, or sleeping quarters which are taxed under
178 31 chapter 422A during the period the hotel and motel tax
178 32 is imposed, on the ~~gross receipts sales price~~ from the
178 33 sale of equipment by the state department of
178 34 transportation, on the ~~gross receipts sales price~~ from
178 35 the sale of self-propelled building equipment, pile
178 36 drivers, motorized scaffolding, or attachments
178 37 customarily drawn or attached to self-propelled
178 38 building equipment, pile drivers, and motorized
178 39 scaffolding, including auxiliary attachments which
178 40 improve the performance, safety, operation, or
178 41 efficiency of the equipment, and replacement parts and
178 42 are directly and primarily used by contractors,
178 43 subcontractors, and builders for new construction,
178 44 reconstruction, alterations, expansion, or remodeling
178 45 of real property or structures, and on the ~~gross~~
178 46 ~~receipts sales price~~ from the sale of a lottery ticket
178 47 or share in a lottery game conducted pursuant to
178 48 chapter 99E and except the tax shall not be imposed on
178 49 the ~~gross receipts sales price~~ from the sale or use of
178 50 natural gas, natural gas service, electricity, or
179 1 electric service in a city or county where the ~~gross~~
179 2 ~~receipts sales price~~ from the sale of natural gas or
179 3 electric energy are subject to a franchise fee or user
179 4 fee during the period the franchise or user fee is

179 5 imposed.
179 6 3. The tax is applicable to transactions within
179 7 the county where it is imposed and shall be collected
179 8 by all persons required to collect state ~~gross~~
~~179 9 receipts sales~~ or local excise taxes. However, a
179 10 person required to collect state ~~retail~~ sales tax
179 11 under chapter ~~422, division IV, 423~~ is not required to
179 12 collect local sales and services tax on transactions
179 13 delivered within the area where the local sales and
179 14 services tax is imposed unless the person has physical
179 15 presence in that taxing area. The amount of the sale,
179 16 for purposes of determining the amount of the tax,
179 17 does not include the amount of any state ~~gross~~
~~179 18 receipts sales taxes~~ or excise taxes or other local
179 19 option sales or excise taxes. A tax permit other than
179 20 the state tax permit required under section ~~422.53 or~~
~~179 21 423.10 423.36~~ shall not be required by local
179 22 authorities.
179 23 Sec. 233. Section 425.30, Code 2003, is amended to
179 24 read as follows:
179 25 425.30 NOTICES.
179 26 Section ~~422.57 423.39~~, subsection 1, shall apply to
179 27 all notices under this division.
179 28 Sec. 234. Section 425.31, Code 2003, is amended to
179 29 read as follows:
179 30 425.31 APPEALS.
179 31 Any person aggrieved by an act or decision of the
179 32 director of revenue and finance or the department of
179 33 revenue and finance under this division shall have the
179 34 same rights of appeal and review as provided in
179 35 sections 421.1 and ~~422.55 423.38~~ and the rules of the
179 36 department of revenue and finance.
179 37 Sec. 235. Section 452A.66, unnumbered paragraph 1,
179 38 Code 2003, is amended to read as follows:
179 39 The appropriate state agency shall administer the
179 40 taxes imposed by this chapter in the same manner as
179 41 and subject to section 422.25, subsection 4 and
179 42 section ~~422.52, subsection 3 423.35~~.
179 43 Sec. 236. Section 455B.455, Code 2003, is amended
179 44 to read as follows:
179 45 455B.455 SURCHARGE IMPOSED.
179 46 A land burial surcharge tax of two percent is
179 47 imposed on the fee for land burial of a hazardous
179 48 waste. The owner of the land burial facility shall
179 49 remit the tax collected to the director of revenue and
179 50 finance after consultation with the director according
180 1 to rules that the director shall adopt. The director
180 2 shall forward a copy of the site license to the
180 3 director of revenue and finance which shall be the
180 4 appropriate license for the collection of the land
180 5 burial surcharge tax and shall be subject to
180 6 suspension or revocation if the site license holder
180 7 fails to collect or remit the tax collected under this
180 8 section. The provisions of ~~sections section~~ 422.25,
180 9 subsection 4, ~~sections~~ 422.30, ~~422.48 to 422.52,~~
~~180 10 422.54 to 422.58,~~ 422.67, and 422.68, ~~section~~ 422.69,
180 11 subsection 1, ~~and sections~~ 422.70 to 422.75, ~~section~~
180 12 ~~423.14, subsection 1, and sections~~ 423.23, 423.24,
180 13 423.25, 423.31, 423.33, 423.35, 423.37 to 423.42, and
180 14 423.47, consistent with the provisions of this part 6
180 15 of division IV, shall apply with respect to the taxes
180 16 authorized under this part, in the same manner and
180 17 with the same effect as if the land burial surcharge
180 18 tax were ~~retail~~ sales taxes within the meaning of
180 19 those statutes. Notwithstanding the provisions of
180 20 this ~~paragraph section~~, the director shall provide for
180 21 only quarterly filing of returns as prescribed in
180 22 section ~~422.51 423.31~~. Taxes collected by the
180 23 director of revenue and finance under this section
180 24 shall be deposited in the general fund of the state.
180 25 Sec. 237. Section 455G.3, subsection 1, Code 2003,
180 26 is amended to read as follows:
180 27 1. The Iowa comprehensive petroleum underground
180 28 storage tank fund is created as a separate fund in the
180 29 state treasury, and any funds remaining in the fund at
180 30 the end of each fiscal year shall not revert to the
180 31 general fund but shall remain in the Iowa
180 32 comprehensive petroleum underground storage tank fund.
180 33 Interest or other income earned by the fund shall be
180 34 deposited in the fund. The fund shall include moneys
180 35 credited to the fund under this section, section

180 36 ~~423.24~~ 423.43, subsection 1, paragraph "a", and
180 37 sections 455G.8, 455G.9, and 455G.11, and other funds
180 38 which by law may be credited to the fund. The moneys
180 39 in the fund are appropriated to and for the purposes
180 40 of the board as provided in this chapter. Amounts in
180 41 the fund shall not be subject to appropriation for any
180 42 other purpose by the general assembly, but shall be
180 43 used only for the purposes set forth in this chapter.
180 44 The treasurer of state shall act as custodian of the
180 45 fund and disburse amounts contained in it as directed
180 46 by the board including automatic disbursements of
180 47 funds as received pursuant to the terms of bond
180 48 indentures and documents and security provisions to
180 49 trustees and custodians. The treasurer of state is
180 50 authorized to invest the funds deposited in the fund
181 1 at the direction of the board and subject to any
181 2 limitations contained in any applicable bond
181 3 proceedings. The income from such investment shall be
181 4 credited to and deposited in the fund. The fund shall
181 5 be administered by the board which shall make
181 6 expenditures from the fund consistent with the
181 7 purposes of the programs set out in this chapter
181 8 without further appropriation. The fund may be
181 9 divided into different accounts with different
181 10 depositories as determined by the board and to fulfill
181 11 the purposes of this chapter.

181 12 Sec. 238. Section 455G.6, subsection 4, Code 2003,
181 13 is amended to read as follows:

181 14 4. Grant a mortgage, lien, pledge, assignment, or
181 15 other encumbrance on one or more improvements,
181 16 revenues, asset of right, accounts, or funds
181 17 established or received in connection with the fund,
181 18 including revenues derived from the use tax under
181 19 section ~~423.24~~ 423.43, subsection 1, paragraph "a",
181 20 and deposited in the fund or an account of the fund.

181 21 Sec. 239. Section 455G.8, subsection 2, Code 2003,
181 22 is amended to read as follows:

181 23 2. USE TAX. The revenues derived from the use tax
181 24 imposed under chapter 423, subchapter III. The
181 25 proceeds of the use tax under section ~~423.24~~ 423.43,
181 26 subsection 1, paragraph "a", shall be allocated,
181 27 consistent with this chapter, among the fund's
181 28 accounts, for debt service and other fund expenses,
181 29 according to the fund budget, resolution, trust
181 30 agreement, or other instrument prepared or entered
181 31 into by the board or authority under direction of the
181 32 board.

181 33 Sec. 240. Section 455G.9, subsection 2, Code 2003,
181 34 is amended to read as follows:

181 35 2. REMEDIAL ACCOUNT FUNDING. The remedial account
181 36 shall be funded by that portion of the proceeds of the
181 37 use tax imposed under chapter 423, subchapter III, and
181 38 other moneys and revenues budgeted to the remedial
181 39 account by the board.

181 40 Sec. 241. Section 2.67, Code 2003, is repealed.

181 41 Sec. 242. CODE EDITOR DIRECTIVE. The Code editor
181 42 is directed to transfer Code chapter 423A to Code
181 43 chapter 421A and to transfer Code chapters 422A, 422B,
181 44 422C, and 422E to Code chapters 423A, 423B, 423C, and
181 45 423E, respectively. The Code editor is directed to
181 46 correct Code references as required due to the changes
181 47 made in this Act.

181 48 SALES TAX ADVISORY COUNCIL

181 49 Sec. 243. IOWA STREAMLINED SALES TAX ADVISORY
181 50 COUNCIL.

182 1 1. An Iowa streamlined sales tax advisory council
182 2 is created. The advisory council shall review, study,
182 3 and submit recommendations to the Iowa streamlined
182 4 sales and use tax delegation regarding the proposed
182 5 streamlined sales and use tax agreement formalized by
182 6 the project's implementing sales on November 12, 2002,
182 7 the proposed language conforming Iowa's sales and use
182 8 tax to the national agreement, and the following
182 9 issues:

182 10 a. Uniform definitions proposed in the current
182 11 streamlined sales and use tax agreement and future
182 12 proposals.

182 13 b. Effects upon taxability of items newly defined
182 14 in Iowa.

182 15 c. Impacts upon business as a result of the
182 16 streamlined sales and use tax.

182 17 d. Technology implementation issues.
182 18 e. Any other issues that are brought before the
182 19 streamlined sales and use tax implementing state or
182 20 the streamlined sales and use tax governing board.
182 21 2. The department shall provide administrative
182 22 support to the Iowa streamlined sales tax advisory
182 23 council. The advisory council shall be representative
182 24 of Iowa's business community and economy when
182 25 reviewing and recommending solutions to streamlined
182 26 sales and use tax issues. The advisory council shall
182 27 provide the general assembly and the governor with
182 28 final recommendations made to the Iowa streamlined
182 29 sales and use tax delegation upon the conclusion of
182 30 each calendar year.
182 31 3. The director of revenue, in consultation with
182 32 the Iowa taxpayers association and the Iowa
182 33 association of business and industry, shall appoint
182 34 members to the Iowa streamlined sales tax advisory
182 35 council, which shall consist of the following members:
182 36 a. One member from the department of revenue and
182 37 finance.
182 38 b. Three members representing small Iowa
182 39 businesses, at least one of whom must be a retailer,
182 40 and at least one of whom shall be a supplier.
182 41 c. Three members representing medium Iowa
182 42 businesses, at least one of whom shall be a retailer,
182 43 and at least one of whom shall be a supplier.
182 44 d. Three members representing large Iowa
182 45 businesses, at least one of whom shall be a retailer,
182 46 and at least one of whom shall be a supplier.
182 47 e. One member representing taxpayers as a whole.
182 48 f. One member representing the retail community as
182 49 a whole.
182 50 g. Any other member the director of revenue and
183 1 finance deems appropriate.
183 2 Sec. 244. EFFEKTIVE DATE. Except for the section
183 3 creating the Iowa streamlined sales tax advisory
183 4 council, this division of this Act takes effect July
183 5 1, 2004.

DIVISION XXIII

STATE ASSISTANCE FOR EDUCATIONAL INFRASTRUCTURE

Sec. 245. NEW SECTION. 292A.1 DEFINITIONS.

183 9 As used in this chapter, unless the context
183 10 otherwise requires:
183 11 1. "Capacity per pupil" means the sum of a school
183 12 district's property tax infrastructure capacity per
183 13 pupil and the sales tax capacity per pupil.
183 14 2. "Committee" means the school budget review
183 15 committee established in section 257.30.
183 16 3. "Department" means the department of education
183 17 established in section 256.1.
183 18 4. "Fund" means the state assistance for
183 19 educational infrastructure fund created in section
183 20 292A.3.
183 21 5. "Local match percentage" means a percentage
183 22 equivalent to either of the following, whichever is
183 23 less:
183 24 a. Fifty percent.
183 25 b. The quotient of a school district's capacity
183 26 per pupil divided by the capacity per pupil of the
183 27 school district at the fortieth percentile, multiplied
183 28 by fifty percent, except that the percentage in this
183 29 paragraph shall not be less than twenty percent.
183 30 6. "Program" means the state assistance for
183 31 educational infrastructure program established in
183 32 section 292A.2.
183 33 7. "Property tax infrastructure capacity per
183 34 pupil" means the sum of a school district's levies
183 35 under sections 298.2 and 298.18 when the levies are
183 36 imposed to the maximum extent allowable under law in
183 37 the budget year divided by the school district's basic
183 38 enrollment for the budget year.
183 39 8. "Sales tax capacity per pupil" means the
183 40 estimated amount of revenues that a school district
183 41 receives or would receive if a local sales and
183 42 services tax for school infrastructure is imposed at
183 43 one percent pursuant to section 422E.2, divided by the
183 44 school district's basic enrollment for the budget
183 45 year.
183 46 9. "School infrastructure" means activities
183 47 initiated on or after July 1, 2003, for which a school

183 48 district is authorized to contract indebtedness and
183 49 issue general obligation bonds under section 296.1,
183 50 except those activities related to a teacher's or
184 1 superintendent's home or homes, to stadiums, to the
184 2 improving of a site for an athletic field, or to the
184 3 improving of a site already owned for an athletic
184 4 field. These activities include the construction,
184 5 reconstruction, repair, demolition work, purchasing,
184 6 or remodeling of schoolhouses and bus garages and the
184 7 procurement of schoolhouse construction sites and the
184 8 making of site improvements and those activities for
184 9 which revenues under section 298.3 or 300.2 may be
184 10 spent.

184 11 Sec. 246. NEW SECTION. 292A.2 STATE ASSISTANCE
184 12 FOR EDUCATIONAL INFRASTRUCTURE PROGRAM.

184 13 1. a. The department shall establish and
184 14 administer a state assistance for educational
184 15 infrastructure program to provide financial assistance
184 16 in the form of grants to school districts with school
184 17 infrastructure needs.

184 18 b. The department of education, in consultation
184 19 with the department of management, shall annually
184 20 compute the property tax infrastructure capacity per
184 21 pupil for each school district in the state.

184 22 c. The department of education, in consultation
184 23 with the department of revenue and the legislative
184 24 services agency, shall annually calculate the
184 25 estimated sales and services tax for school
184 26 infrastructure, if imposed at one percent, that is or
184 27 would be received by each school district in the state
184 28 pursuant to section 422E.3. These calculations shall
184 29 be made on a total tax and on a tax per pupil basis
184 30 for each school district.

184 31 d. The department of education, in consultation
184 32 with the department of revenue and the department of
184 33 management, shall annually compute capacity per pupil
184 34 and the local match percentage for each school
184 35 district in the state. The calculations shall be
184 36 released not later than September 1 of each year.

184 37 2. a. A school district's local match requirement
184 38 is equivalent to the total investment of a project
184 39 multiplied by the school district's local match
184 40 percentage. A school district may submit an
184 41 application to the department for financial assistance
184 42 under the program if the school district meets the
184 43 district's local match requirement through one or more
184 44 of the following sources:

184 45 (1) The issuance of bonds pursuant to section
184 46 298.18.

184 47 (2) Local sales and services tax moneys received
184 48 pursuant to section 422E.3.

184 49 (3) A physical plant and equipment levy under
184 50 chapter 298.

185 1 (4) Other moneys locally obtained by the school
185 2 district excluding other state or federal grant
185 3 moneys.

185 4 b. If the project is in collaboration with other
185 5 public or private entities, the school district shall
185 6 be eligible to apply for only the school district's
185 7 portion of the project. As such, state or federal
185 8 grants received by the other entities cannot be used
185 9 toward the local match requirement under paragraph
185 10 "a", subparagraph (4).

185 11 c. A school district may submit an application for
185 12 a project which includes activities at more than one
185 13 attendance center. However, if the activities relate
185 14 to new construction, the project shall only relate to
185 15 one attendance center.

185 16 d. A school district may submit an application for
185 17 conditional approval to the department for financial
185 18 assistance under the program if the school district
185 19 submits a plan for securing the school district's
185 20 local match requirement under paragraph "a". If a
185 21 school district does not meet the local match
185 22 requirement of paragraph "a" within nine months of
185 23 receiving conditional approval from the department,
185 24 the application for financial assistance shall be
185 25 denied by the department and the financial assistance
185 26 shall be carried forward to be made available under
185 27 the allocation provided under subsection 4, paragraph
185 28 "d", for the next available grant cycle.

185 29 e. For the fiscal year beginning July 1, 2003, and
185 30 every fiscal year thereafter, applications shall be
185 31 submitted to the department by October 15 of each
185 32 year.

185 33 f. For the fiscal year beginning July 1, 2003, and
185 34 every fiscal year thereafter, the department shall
185 35 notify all approved applicants by December 15 of each
185 36 year regarding the approval of the application.

185 37 g. An applicant which is not successful in
185 38 obtaining financial assistance under the program may
185 39 reapply for financial assistance in succeeding years.

185 40 3. The application shall include, but shall not be
185 41 limited to, the following information:

185 42 a. The total capital investment of the project.
185 43 b. The amount and percentage of moneys which the
185 44 school district will be providing for the project.
185 45 c. The infrastructure needs of the school
185 46 district, especially the fire and health safety needs
185 47 of the school district, and including the extent to
185 48 which the project would allow the school district to
185 49 meet the infrastructure needs of the school district
185 50 on a long-term basis.

186 1 d. The financial assistance needed by the school
186 2 district based upon the capacity per pupil.

186 3 e. Any previous efforts by the school district to
186 4 secure infrastructure funding from federal, state, or
186 5 local resources, including any funding received for
186 6 any project under the school infrastructure program
186 7 provided in chapter 292. The previous efforts shall
186 8 be evaluated on a case-by-case basis.

186 9 f. Evidence that the school district meets or will
186 10 meet the local match requirement in subsection 2,
186 11 paragraph "a".

186 12 g. The nature of the proposed project and its
186 13 relationship to improving educational opportunities
186 14 for the students.

186 15 h. Evidence that the school district has
186 16 reorganized on or after July 1, 2002, or that the
186 17 school district has initiated a resolution to
186 18 reorganize by July 1, 2005, or entered into an
186 19 innovative collaboration with another school district
186 20 or school districts.

186 21 i. Evidence that the school district receives
186 22 sales and services tax for school infrastructure
186 23 funding under section 422E.3.

186 24 4. A school district with less than two hundred
186 25 fifty actual enrollment or less than one hundred
186 26 actual enrollment in the high school that submits an
186 27 application for assistance for new construction or for
186 28 payments for bonds issued for new construction shall
186 29 include on the application, in addition to that in
186 30 subsection 3, all of the following:

186 31 a. Enrollment trends in the grades that will be
186 32 served at the new construction site.
186 33 b. The infeasibility of remodeling,
186 34 reconstructing, or repairing existing buildings.
186 35 c. The fire and health safety needs of the school
186 36 district.
186 37 d. The distance, convenience, cost of
186 38 transportation, and accessibility of the new
186 39 construction site to the students to be served at the
186 40 new construction site.
186 41 e. Availability of alternative, less costly, or
186 42 more effective means of serving the needs of the
186 43 students.
186 44 f. The financial condition of the district,
186 45 including the effect of the decline of the budget
186 46 guarantee and unspent balance.
186 47 g. Broad and long-term ability of the district to
186 48 support the facility and the quality of the academic
186 49 program.
186 50 h. Cooperation with other educational entities
187 1 including other school districts, area education
187 2 agencies, postsecondary institutions, and local
187 3 communities.

187 4 5. A school district shall not receive more than
187 5 one grant under the program. The financial assistance
187 6 shall be in the form of grants and shall be allocated
187 7 in the following manner:

187 8 a. Twenty-five percent of the financial assistance
187 9 each year shall be awarded to school districts with an

187 10 enrollment of one thousand one hundred ninety-nine
187 11 students or less.

187 12 b. Twenty-five percent of the financial assistance
187 13 each year shall be awarded to school districts with an
187 14 enrollment of more than one thousand one hundred
187 15 ninety-nine students but not more than four thousand
187 16 seven hundred fifty students.

187 17 c. Twenty-five percent of the financial assistance
187 18 each year shall be awarded to school districts with an
187 19 enrollment of more than four thousand seven hundred
187 20 fifty students.

187 21 d. Twenty-five percent of the financial assistance
187 22 each year, any financial assistance not awarded under
187 23 paragraphs "a" through "c", and financial assistance
187 24 not awarded in previous fiscal years shall be awarded
187 25 to school districts with any size enrollment.

187 26 6. A district shall receive the lesser of one
187 27 million dollars of financial assistance under the
187 28 program, or the total capital investment of the
187 29 project minus the local match requirement. If the
187 30 amount of grants awarded in a fiscal year is less than
187 31 the maximum amount provided for grants for that fiscal
187 32 year, the amount of the difference shall be carried
187 33 forward to subsequent fiscal years for purposes of
187 34 providing grants under the program and the maximum
187 35 amount of grants for each fiscal year shall be
187 36 adjusted accordingly.

187 37 7. The school budget review committee shall review
187 38 all applications for financial assistance under the
187 39 program and make recommendations regarding the
187 40 applications to the department. The department shall
187 41 make the final determination on grant awards. The
187 42 school budget review committee shall base the
187 43 recommendations on the criteria established pursuant
187 44 to subsections 3 and 8 and subsection 4, if
187 45 applicable.

187 46 8. The department shall form a task force to
187 47 review applications for financial assistance and
187 48 provide recommendations to the school budget review
187 49 committee. The task force shall include, at a
187 50 minimum, representatives from the kindergarten through
188 1 grade twelve education community, the state fire
188 2 marshal, and individuals knowledgeable in school
188 3 infrastructure and construction issues. The
188 4 department, in consultation with the task force, shall
188 5 establish the parameters and the details of the
188 6 criteria for awarding grants based on the information
188 7 listed in subsection 3, including greater priority to
188 8 the following:

188 9 a. A school district with a lower capacity per
188 10 pupil.

188 11 b. A school district whose plans address specific
188 12 occupant safety issues.

188 13 c. A school district reorganizing or collaborating
188 14 as described in subsection 3, paragraph "h".

188 15 d. A school district for which a sales and
188 16 services tax for school infrastructure has not been
188 17 imposed pursuant to section 422E.2 or a school
188 18 district receiving minimal revenues under section
188 19 422E.3 when the total enrollment of the school
188 20 district is considered.

188 21 9. An applicant receiving financial assistance
188 22 under the program shall submit a progress report to
188 23 the department as requested by the department which
188 24 shall include a description of the activities under
188 25 the project, the status of the implementation of the
188 26 project, and any other information required by the
188 27 department.

188 28 10. A school district located in whole or in part
188 29 in a county which has imposed the maximum rate of
188 30 sales and services tax for school infrastructure
188 31 pursuant to section 422E.2 and has sales and services
188 32 tax for school infrastructure revenue of more than the
188 33 statewide average of sales tax capacity per pupil, as
188 34 defined in section 292.1, subsection 8, shall not be
188 35 eligible for financial assistance under the program.
188 36 For purposes of this subsection, an individual school
188 37 district's sales tax capacity per pupil is the
188 38 estimated total sales and services tax for
188 39 infrastructure revenue to be actually received by the
188 40 school district divided by the school district's

188 41 enrollment as specified in section 292.1, subsection
188 42 8.
188 43 Sec. 247. NEW SECTION. 292A.3 STATE ASSISTANCE
188 44 FOR EDUCATIONAL INFRASTRUCTURE FUND.
188 45 A state assistance for educational infrastructure
188 46 fund is created as a separate and distinct fund in the
188 47 state treasury under the control of the department.
188 48 Moneys in the fund include revenues credited to the
188 49 fund pursuant to this chapter, appropriations made to
188 50 the fund, and other moneys deposited into the fund.
189 1 Any amounts disbursed from the fund shall be utilized
189 2 for school infrastructure purposes as provided in this
189 3 chapter.

189 4 Sec. 248. NEW SECTION. 292A.4 RULES.
189 5 The department shall adopt rules, pursuant to
189 6 chapter 17A, necessary for administering the state
189 7 assistance for educational infrastructure program and
189 8 fund.>

189 9 #2. Title page, by striking lines 1 and 2 and
9
189 10 inserting the following: 189 11 regulatory, taxation, and statutory requirements
189 12 affecting individuals and business relating to
189 13 taxation of property, income and sales and use,
189 14 liability reform, workers' compensation, financial
189 15 services, unemployment compensation employer
189 16 surcharges, economic development, and school
189 17 infrastructure assistance, and including effective
189 18 date, applicability, and retroactive applicability
189 19 provisions.>

189 20 #3. By renumbering as necessary.

189 21
189 22
189 23
189 24

COMMITTEE ON WAYS AND MEANS
189 25 LARRY McKIBBEN, CHAIRPERSON
189 26 HF 692.312 80
189 27 sc/cf